



United States  
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# Congressional Record

PROCEEDINGS AND DEBATES OF THE 105<sup>th</sup> CONGRESS, FIRST SESSION

## SENATE—Sunday, November 9, 1997

The Senate met at 1 p.m. and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. Our prayer this morning will be led by Father Paul Lavin of St. Joseph's on Capitol Hill. We are pleased to have you with us.

### PRAYER

The guest Chaplain, Father Paul E. Lavin, pastor, St. Joseph's on Capitol Hill, Washington, DC, offered the following prayer:

In Psalm 86, David sings:

*Teach me, Lord, your way that I may walk in your truth, single hearted and revering your name.*

*I will praise you with all my heart, glorify your name forever, Lord, my God.*

*Your love for me is great; you have rescued me from the depths of Sheol.—Psalm 86: 11-13.*

Let us pray:

We stand before you, O Lord, conscious of our sinfulness but aware of Your love for us.

Come to us, remain with us, and enlighten our hearts.

Give us light and strength to know Your will, to make it our own, and to live it in our lives.

Guide us by Your wisdom, support us by Your power, keep us faithful to all that is true.

You desire justice for all: Enable us to uphold the rights of others; do not allow us to be misled by ignorance or corrupted by fear or favor.

Glory and praise to You for ever and ever. Amen

### RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator LOTT of Mississippi, is recognized.

Mr. LOTT. Thank you, Mr. President.

### SCHEDULE

Mr. LOTT. Mr. President, before I talk about today's schedule, I do want to commend a number of Senators who have been doing yeomen's work over

the past 2 days. Even though we haven't had a lot of recorded votes, we have been making good progress. I remind the Senate that we did come to an agreement after actually at least 3 years of going back and forth on a bipartisan Amtrak bill, which passed on Friday on a voice vote. That now will be in conference, and I think there is even a chance that we could get an agreement on that conference report before we go out. If we don't, it will be something we should reach early agreement on in conference when we come back after the first of the year.

Also, the Senate did agree to pass a fix with regard to ISTEPA, or the highway infrastructure bill, which is now before the House for their consideration.

The Senate yesterday passed by an overwhelming vote of 91 to 4 the very large and important Labor, Health and Human Services, and Education appropriations bill conference report, and just last night we reached an agreement after a lot of good work by a lot of Senators, including Senator CHAFEE, Senator ROCKEFELLER, Senator ROTH, Senator GRASSLEY, Senator CRAIG, who really did the great work in bringing the divergent parties together, Senator DEWINE and others, on the foster care-adoption issue. I think this will be, frankly, one of the things that we will be most proud of when this year is concluded. We did that last night. Once, again, after a lot of hard work and good cooperation, that passed last night on a voice vote.

Today, continued effort will be made to get an agreement in conference for the Food and Drug Administration reform bill. Probably 12 or 14 times we reached agreement and closed the conference, all to find that something was misplaced along the way or the agreement was not what others had thought it would be, and so it is still alive. I talked again to interested Senators this morning, and they will be working on it today. This, again, is something we need to do before we leave. So there is a lot happening in terms of Senators meeting; in the case of FDA reform, the House and Senate Members meeting on the conference report. I am

looking forward to that agreement being reached.

Later on today, there is a good possibility that we will consider an omnibus appropriations bill to be offered by the chairman and the ranking member of the Appropriations Committee. We do not now have a fixed time agreement, and there is no certainty whether or not there will be a rollcall vote or when that would be. There is still some discussion going on with regard to that bill. But in any event, once a decision is made on that legislation, if a rollcall vote is required, Senators will be notified 1 hour prior to that first vote.

We are also continuing to work to see if we can get an agreement to move the District of Columbia appropriations bill through the Senate on a voice vote and through the House, so it can go down separately for the President's consideration to sign or veto it or to line-item veto the scholarship portion of it, which I think would be a big mistake. That still could come up either on a voice vote or perhaps a recorded vote would be required on that, as well as the omnibus appropriations bill.

In addition, the Senate could expect to consider other Legislative or Executive Calendar items. The Executive Calendar now is down to just a very few nominations. Several of them are being held at this time because of holds on other nominations. Today is the day when Senators need to consider if, in fact, they want to hold these nominations up for the remainder of the year and over into next year. We have worked very assiduously with interested Senators on both sides of the aisle. The administration tried to clear as many of these as possible, and we will do so again today.

The House of Representatives is, at this point, scheduled to consider the fast-track legislation late this afternoon or early evening. I have spoken to House leaders. There is no certainty at this time as to when that vote will occur. It looks to me like it will certainly be late afternoon or into the night. Therefore, the Senate can do nothing more really on fast track other than await the action in the House. If they should not pass the bill, then it

● This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

would be my intent, and I believe it would be agreed to by leaders on both sides of the aisle, not to go further in the Senate with fast track. If it passes, then we have to make an assessment as to how we can bring it to a conclusion in the Senate. That could be tonight, it could be Monday, or it could be something else, which I don't even want to mention at this point.

We also have the three remaining appropriations bills—Commerce, State, Justice; District of Columbia; and foreign operations. All of those still have an item or two that are in contention. We don't know whether we will move on the omnibus appropriations bill or whether the House will decide to go ahead and act on the bills separately and send them to us. But we will be working throughout the day to try to ascertain when we will get those appropriations bills and in what form.

I think then the bottom line is, we do not expect a recorded vote any time soon. Senators will be notified 1 hour in advance should a recorded vote be required this afternoon. All Senators should be aware, and they need to keep their schedules clear, so that we can perhaps still have an opportunity to conclude this year's session today or tonight.

I now ask that there be a period for the transaction of morning business—

Mr. LEAHY. Mr. President, before he does that, will the majority leader yield?

Mr. LOTT. I withhold, and I will be glad to yield, Mr. President, to the Senator from Vermont.

Mr. LEAHY. Mr. President, my friend from Mississippi has raised the issue of the appropriations bills. Senators, as he knows, have been working very, very hard on that—the distinguished chairman of the committee, Mr. STEVENS, the distinguished ranking member, Mr. BYRD, and those of us who are either ranking or chairmen of the appropriate subcommittees that are involved, in this case three key ones.

Mr. President, I note, as we have discussed privately, that there will not be a perfect piece of appropriations legislation, I say to my friend from Mississippi, from anyone's point of view. It is not precisely what he would write if he were to write it solely by himself; it is not precisely what I would write if I wrote it solely by myself, and we could say that with the other 98 men and women in this body.

At some point, when you are down to the last few hours of the session, we have to allow the committee system and the leadership system to work, where senior Members, especially of appropriations, where senior Members in both parties, in both bodies have to come together and reach an agreement, realizing that not every single Member on the left or on the right is going to like it. But you have to trust at some

point some question of seniority in putting this together.

I didn't care much for the seniority system when I came here 23 years ago, but having studied it for 23 years, I understand it so much better now. I say to my friend, the majority leader, and I think he would agree with me, that in the last few days of the session, especially with appropriations, you are not going to get a bill that is going to please every single Member 100 percent, but we have to get something done because at some point you have to fish or cut bait.

I just mention that because I know the distinguished majority leader has been working as hard on this as anybody else to get us to this point.

Mr. LOTT. I have used those exact words, I might say, "fish or cut bait."

I will note again, we made tremendous progress in the past week on appropriations bills and other issues. I mentioned Amtrak, the highway bill, FDA, adoption and foster care, and I believe even on appropriations bills basically everything has been worked out but one issue. Obviously, we concluded an acceptable compromise on the Labor-HHS appropriations conference report involving the testing language.

I believe we have an agreement worked out with regard to the census language that would be incorporated in the Commerce, State, Justice appropriations bill.

I believe the two remaining issues for the year boil down to this: Can the House get the votes for fast track, since the Senate has already spoken overwhelmingly with votes of 68 and 67 for cloture motions to limit the debate so we can get to final passage, and the other one is the foreign operations bill, which includes a number of very important issues. Obviously, it involves the funds for our foreign operations; it involves the agreement with regard to how much would be paid for the U.N. arrearages; it involves the State Department authorization and reform and reorganization bill; it involves funds for the International Monetary Fund. But the one issue that is holding it all up, basically, boils down to whether or not the taxpayers' dollars will be used to promote and encourage foreign governments to encourage abortions. The bill that I thought we had agreed to provided a waiver where the President could waive that, but it would affect the funds.

It has gotten down to a very narrow issue. You are right, we are not going to come to an agreement that every Senator will agree to, but I think we are close enough on that issue that we ought to be able to reach agreement and bring the foreign operations appropriations conference report to a conclusion. And if we can get that agreement and fast track, we will have completed the year on a very high note and one that the American people, I think, will

be proud of and of which we could be proud.

The taxpayers of the United States have had a pretty good year. We would like to end up with agreements on these important issues. Certainly, it won't be perfect, as the Senator has said, but we have tried compromise after compromise after compromise. So far, none of them have taken hold. But I have faith that on Sunday, we will find a way to do that. Certainly, I do think that senior Members and leaders have to step up to these challenges and get the job done.

#### MORNING BUSINESS

Mr. LOTT. Mr. President, I ask unanimous consent that there be a period for the transaction of morning business until the hour of 1:30 p.m., with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER (Mr. BROWNBACK). Without objection, it is so ordered.

Mr. LOTT. I yield the floor.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

#### THANKING THE SENATE STAFF

Mr. LEAHY. Mr. President, I will be very brief because I see other Senators waiting to take the floor. I will note a couple of things. The distinguished majority leader has mentioned that it is Sunday. The guest Chaplain today, Father Paul Lavin of St. Joseph's Church, is my pastor when I am away from my home in Vermont, which is not often on a Sunday.

But this Sunday is extraordinary, that is, being in Washington and not in Vermont.

Father Lavin also prayed for, in the mass this morning which my wife and I attended, the Congress and the Government, and so forth, as we all do.

Sometimes we have to be careful we don't get too much of what we pray for, but I think it would probably be safe to say, as I look around at the staff and everybody else here, that they were probably praying that it would come to a conclusion.

In that respect, I note, Mr. President, as I have in other years, that while I may joke about Senators being nothing but constitutional impediments to the staff, the fact is, the U.S. Senate, the greatest parliamentary body in the world, could not exist without the extraordinarily talented men and women who work on Capitol Hill for Members on both sides of the aisle, for committees, for the Senate itself, and those who take the notes of our proceedings, to those who keep the procedures of the Senate moving.

I say a special compliment to the young men and women who come here and serve as pages, come from all over

the country and serve here as pages. I have been fortunate to have had a series of some of the most exemplary young men and women from Vermont who have served here as pages. They go through a rigorous screening process. Only the best get picked. And they go back to be the best among our citizens in our own State.

The people in this country oftentimes do not realize the extraordinary dedication of the men and women who work here who sometimes put in literally around-the-clock hours and days, who literally give of themselves more than any private industry could ever expect of anyone. And that is what makes the Senate work.

My friend from Mississippi and I were discussing earlier putting together this last-minute legislation. Well, we can make some policy decisions, but it is these people who have to then pull it together. For Foreign operations, Tim Rieser, from my staff, carries out my duties as ranking member on that. There are dozens of others on both sides that have to do this—Robin Cleveland for Senator MCCONNELL, who is the chairman of that subcommittee.

And it is the same with all the subcommittees, trying to pull these pieces together and actually have the paper. We stand up and say "aye" or "nay," but they have to have the papers on the floor in perfect condition for us to vote on them.

Then, whether it is the people in the Cloakroom, the people back at our offices, or anybody else, they also give up their family time to be here for the good of the country.

#### FOREIGN AID

Mr. LEAHY. Mr. President, I hope we can complete these foreign aid bills. I would also say to my friend from Mississippi, he mentioned whether we should use taxpayers' money for abortion in the foreign aid bill. There is a specific prohibition against any U.S. dollars being used for abortions abroad in the foreign aid bill.

In fact, as Senator Mark Hatfield, former chairman of the Appropriation Committee, and I pointed out on the floor earlier—he was very much a right-to-life, antiabortion Senator, consistent in that—pointed out that the family planning moneys that have gone in the foreign aid bill have dramatically decreased the number of abortions in those areas where they were used.

An example was Russia where abortion was used as a form of birth control, where we gave them family planning money and the number of abortions dropped dramatically.

So I hope that we will continue to do that and realize, while family planning is something available to most people in the United States, in a lot of other countries it is not available because of

costs, because of techniques, because of training, for whatever reason. Unfortunately, in those countries oftentimes abortions are a means of family planning. So I hope that those who are against abortion would realize family planning money can help us prevent that.

#### NOMINATIONS

Mr. LEAHY. Then lastly, Mr. President—I will probably speak on this again this afternoon. If we go out, it means there will not be a chance to confirm a number of judges who are pending, who have been pending for a considerable period of time; one in particular, who has been voted out of our committee twice, once last year and again this year, Margaret Morrow, one of the most qualified people, man or woman, ever to be nominated to be a district court judge.

We also have what I think is the shocking situation of Bill Lann Lee, who has been subjected to some of the most scurrilous charges—charges, unfortunately, repeated even by Members of the Senate. The charges have been refuted, but need to be refuted in a hearing. We have asked for a further hearing on Bill Lann Lee just so those charges can be refuted. We have been told that we cannot have that hearing.

I renew the request. We should have it.

We talk about civil rights in this country. The civil rights of this country are determined by having strong laws and strong people to enforce those laws. I do not believe in the better natures of our souls as Americans that all of us would support the civil rights of all others simply in a vacuum. Many of us would; others do need the requirement of a law to do that.

I would like to think that I am a person who would never break into an unlocked, unguarded warehouse in the middle of the night to steal things. But we have laws and locks to prevent others who may not feel as strongly motivated to obey the commandment: "Thou shalt not steal."

By the same token, we set up laws that say: "You shall not discriminate. You shall protect the civil rights of all Americans." Those laws need to be enforced. We do not have a chief enforcer now. The President has nominated Bill Lann Lee, a most qualified person for that position.

Unfortunately, the debate on this fine nominee took a decidedly partisan turn when the Speaker of the House chose to intervene in this matter and urge the Senate Republican leader to kill this nomination. He waited until after the confirmation hearing to raise and mischaracterize a case about which no member of the Senate Judiciary Committee, Republican or Democrat, had asked a single question. Indeed, apparently unaware of the decision of his

party leaders to defeat this nominee, Chairman HATCH predicted on the weekend news programs following the hearing that the nomination would be reported favorably by the Judiciary Committee but might face tough going on the Senate floor.

In his unfortunate letter, Speaker GINGRICH unfairly criticized Mr. Lee and accused him of unethical conduct. Since that letter Speaker GINGRICH's charges have been repeated over and over again. Indeed, Senator HATCH devoted an entire section of his statement last Tuesday opposing Mr. Lee to the Tipton-Whittingham case. Because of the mischaracterizations of this case and the misstatements of Mr. Lee's record and because Republican opponents are now distorting and contorting Mr. Lee's views, testimony and work, I thought it appropriate to request an opportunity for Bill Lee to respond to the false charges and impression being espoused by his opposition. I thought it only fair.

On behalf of and along with the other minority members of the Judiciary Committee, I sent Senator HATCH a letter yesterday formally requesting such a hearing. The chairman refused our request for a hearing. That is unfortunate. He explained on a Sunday talk show morning that all the questions that would be raised at an additional hearing had already been covered and implied that questions about the Tipton-Whittingham case had been asked in the extensive written questions to Mr. Lee that followed the hearing.

In fact, no Senator asked a single question about the Tipton-Whittingham case at the October 22 hearing and, although, Mr. Lee was sent page after page of written questions following the hearing, only Senator HATCH asked about the case. Unfortunately, Senator HATCH's question and its answer have been ignored by those opposing Mr. Lee. Speaker GINGRICH and others are making false charges and the nominee has been given no fair opportunity to set the record straight.

Let me explain what the Tipton-Whittingham case is about. I regret having to discuss this matter at all since it remains a pending matter in the District Court for the Central District of California. The case includes serious allegations of sexual harassment and gender and racial discrimination involving the Los Angeles Police Department arising in part from an association of officers, called "Men Against Women," which was apparently organized by former Los Angeles Police detective Mark Fuhrman.

The allegations of wrongdoing carelessly lodged against Mr. Lee are contradicted by the Republican mayor of Los Angeles, Richard Riordan, as well as the vice-president of the Los Angeles Police Commission, T. Warren Jackson, the assistant city attorney,

Robert Cramer, and the city attorney, James K. Hahn. I ask unanimous consent that their letters be printed in the RECORD at the conclusion of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. LEAHY. Mr. President, I recall when times were different. I recall when charges were raised against Clarence Thomas and the Judiciary Committee held several days of additional hearings after that nomination had already been reported by the Judiciary Committee to the full Senate. There was a tie vote in committee on the Thomas nomination, which would not have even been voted to the Senate had we not also voted virtually unanimously, with six Democrats joining seven Republicans, to report the Thomas nomination to the floor without recommendation. Of course, ultimately the nomination of Judge Thomas to become Justice Thomas was confirmed by the Senate.

Over the last decade and one-half Republicans have pioneered and developed procedures whereby the Judiciary Committee has reported to the Senate for its consideration nominations on which the committee had come to a tie vote and even, in the case of Judge Bork's nomination to the Supreme Court, an overwhelmingly negative vote.

I recall for example the nomination of Daniel Manion which was reported to the Senate after a tie vote and was ultimately approved by the Senate. I recall, as well, the nomination of Clarence Thomas to the Supreme Court which was reported after a tie vote and ultimately approved by the Senate.

Time after time during the Reagan and Bush years the Republicans on the Judiciary Committee urged that the full Senate be permitted to decide these questions. Senator THURMOND argued in favor of reporting an executive branch nomination on which the committee had voted negatively, noting:

As long as I am a member of this Committee, I will give an opportunity, whether it is majority or minority, to send the nominations to the Senate. I think the Senate is entitled to the recommendation [of the Committee], and you made the recommendation by the vote just taken. But I think the Senate is entitled to a vote on this matter, I think the President is entitled for the Senate to vote, and I think the country is entitled for the Senate to vote. I would hope it would be sent to the Senate and let the full Senate act.

I have been one, frankly, who has not always supported such action. It took a while to bring me around. But I joined in voting to report the Thomas nomination after a tie vote.

It remains my hope that we will find a way to show Bill Lee the same fairness that we showed Clarence Thomas and allow his nomination to be debated and voted upon by the U.S. Senate. It would be ironic if, after the Senate pro-

ceeded to debate and vote on the Thomas nomination—one that included charges that he engaged in sexual harassment, the Republican leadership prevented the Senate from considering a nominee because he has worked to remedy sexual harassment and gender discrimination.

I feel confident that this nomination, the first Asian-American to head the Civil Rights Division, would be confirmed by the majority of the Senate. I believe that when the facts and record are reviewed fairly and dispassionately he will be confirmed. When the country has had an opportunity to focus on this important nomination and Senators have had a chance to consider how their constituents feel, I am confident that a positive outcome will be assured.

From all that I have seen over the past week, it appears to me that the Republican leadership is intent upon seeking to kill this nomination and determined to kill it in this committee and never give the Senate an opportunity to consider it. I do not think that it is fair or right or right for the country. We need Bill Lee's proven problem-solving abilities in these difficult times.

No one can argue that the President has sent to us a person not qualified by experience to lead the Civil Rights Division. Bill Lee's record of achievement is exemplary. He is a man of integrity and honor and when he said to this committee that quotas are illegal and wrong and that he would enforce the law, no one should have any doubt about his resolve to do what is right. The Senate should be given the opportunity to debate and vote on this outstanding nominee and then give Bill Lee the chance to serve the country and all Americans.

I think the Senate has committed a great wrong to him in blocking his nomination, that is absolutely wrong.

#### EXHIBIT 1

CITY OF LOS ANGELES,  
OFFICE OF THE MAYOR,  
Los Angeles, CA, March 20, 1997.

ERSKINE BOWLES,  
Chief of Staff, Office of the President,  
The White House, Washington, DC.

Re: Bill Lann Lee, Candidate for Assistant Attorney General, Civil Rights Division, United States Department of Justice.

DEAR MR. BOWLES: I am writing to support the appointment of Bill Lann Lee to the United States Department of Justice position of Assistant Attorney General, Civil Rights Division. Throughout his distinguished career as a civil rights lawyer, Mr. Lee has worked to advance the civil rights progress of the nation and of our richly diverse city of Los Angeles.

In my opinion, Bill Lee is an astute lawyer who is superbly qualified to enforce our national civil rights laws. Mr. Lee's candidacy offers the President an excellent opportunity to reaffirm his strong support of women's rights and civil rights laws.

Mr. Lee first became known to me as opposing counsel in an important civil rights case concerning poor bus riders in Los Ange-

les. As Mayor, I took a leading role in settling that case. The work of my opponents rarely evoked my praise, but the negotiations could not have concluded successfully without Mr. Lee's practical leadership and expertise.

I know that his expertise is the result of working twenty-two years in the "All Star" leagues of civil rights litigators. His track record is nationally renowned and speaks for itself. Beyond the many victories, what makes his work special is that he has represented clients from every background, including poor whites, women and children suffering from lead poisoning. His admirable ability to win the trust of so many communities is evident in the broad coalition of civil rights and women's rights experts who are backing his candidacy for this position.

Mr. Lee has practiced mainstream civil rights law. He does not believe in quotas. He has pursued flexible and reasonable remedies that in each case were approved by a court.

Mr. Lee is an outstanding citizen of Los Angeles. He has my enthusiastic support and strongest recommendation for the position of Assistant Attorney General for Civil Rights.

Sincerely,

RICHARD J. RIORDAN,  
Mayor.

LOS ANGELES POLICE COMMISSION,  
Los Angeles, CA, November 5, 1997.

Hon. ORRIN G. HATCH,  
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR SENATOR HATCH: As Vice-President of the Los Angeles Police Commission, and a Governor Wilson appointee to the California Fair Employment & Housing Commission (the state's civil rights enforcement agency), please allow me to clarify the record and give my unqualified support for Bill Lann Lee to be Assistant Attorney General for Civil Rights. The clarification involves a case entitled Tipton-Whittingham, et al. v. City of Los Angeles, wherein allegations of sexual harassment and sex discrimination in the Los Angeles Police Department ("LAPD") have been asserted. This case appears to have become an issue in the nomination of Mr. Lee.

The allegations in Tipton-Whittingham, while disputed in some respects, are serious matters that the LAPD are committed to addressing. Issues of gender bias and harassment have been raised not only by these plaintiffs but also by independent and respected voices such as the Christopher Commission. The parties engaged in arms length negotiations for more than a year before a proposed partial consent decree was submitted for approval to the Los Angeles City Council and then the Court.

The proposed decree was presented to the federal magistrate only after being vetted by the Police Commission, the Mayor's office, the City Council and the City Attorney's office. While members of the Police Commission, including this Commissioner, and the Mayor's office initially objected to specific provisions of the proposed consent decree, those objections were fully heard and addressed before the decree was presented.

As you know, that proposed consent decree has not been approved by the Federal Court. In the meantime, the parties are engaged in mediation before Charles G. Bakely, Jr. in the hopes of reaching a complete settlement of the lawsuit. Hopefully, any settlement will ensure that the LAPD of the future is free of racial and gender bias and sexual harassment, and any consent decree will neither

on its face nor in operation require or induce unlawful preferences. I hasten to add, however, that the proposed partial consent decree previously submitted to the Federal Court had that same objective.

As a final matter, in my role as Assistant General Counsel for Hughes Electronics responsible for labor and employment law matters, I have opposed Mr. Lee in employment litigation. I was then and continue to be impressed by his balance, ethics, intelligence and commitment to reaching practical solutions. In my view, he would be an outstanding addition to the Department of Justice.

Should you have any questions regarding the above, please do not hesitate to call me. Sincerely,

T. WARREN JACKSON,  
Vice-President.

OFFICE OF THE CITY ATTORNEY,  
Los Angeles, CA, October 29, 1997.

HON. TRENT LOTT,  
Senate Majority Leader, Washington, DC.  
Re: Bill Lann Lee Confirmation.

DEAR MR. MAJORITY LEADER: As an Assistant City Attorney for the City of Los Angeles—and opposing counsel to Bill Lann Lee in recent federal civil rights litigation—I read with concern the October 27 letter to you from the Speaker of the House of Representatives. I believe the Speaker has been misinformed about many of the facts set out in that letter, and therefore the conclusions he reaches about Mr. Lee's fitness for public office, and in particular for the position of Assistant Attorney General for Civil Rights, are unwarranted.

The Speaker's letter begins by asserting that Mr. Lee "attempted to force through a consent decree mandating racial and gender preferences in the Los Angeles Police Department." This assertion is erroneous. In the course of representing the City of Los Angeles, I have for the past seventeen years monitored the City's compliance with consent decrees affecting the hiring, promotion, advancement, and assignment of sworn police officers. I have negotiated on the City's behalf two of those decrees. Of those two, Mr. Lee was opposing counsel on the first, and was associated with opposing counsel on the second. None of these decrees mandates the use of racial or gender preferences. In fact, each of them contains provisions forbidding the use of such preferences.

For the same reasons, the Speaker's statement that the use of racial and gender preferences "would have been a back-door thwarting of the will of the people of California with regard to Proposition 209 (the California Civil Rights Initiative)" is inapposite. Because the decrees with which Mr. Lee was associated do not call for racial or gender preferences, and in fact forbid them, these decrees do not violate the requirements or the intent of Proposition 209.

Of particular concern to me is the Speaker's reference to "the allegation that Mr. Lee apparently employed dubious means to try to circumscribe the will of the judge in the case." Thus allegation is wholly untrue. The case being referred to is presently in litigation in the district court. Mr. Lee was not at any time a named counsel in the case, but was associated with opposing counsel because of his involvement in the negotiation of a related consent decree. Neither Mr. Lee nor any opposing counsel attempted in any fashion to thwart the will of the judge supervising the litigation. The matter had been referred by the court to a magistrate judge appointed by the court to assist in the resolu-

tion of the case. Each counsel had advised the district judge at all points about the progress of the matter. Upon reconsideration, the district judge elected to assert direct control over the litigation. Nothing in Mr. Lee's conduct reflected any violation of the court's rules, either in fact or by appearance.

Bill Lann Lee and I have sat on opposite sides of the negotiating table over the course of several years. Although we have disagreed profoundly on many issues, I have throughout the time I have known him respected Bill's candor, his thorough preparation, his sense of ethical behavior, and his ability to bring persons holding diverse views into agreement. He would, in my view, be an outstanding public servant and a worthy addition to the Department of Justice.

Very truly yours,

ROBERT CRAMER,  
Assistant City Attorney.

CITY ATTORNEY,  
Los Angeles, CA, November 4, 1997.

HON. DIANNE FEINSTEIN,  
U.S. Senator, Washington, DC.

DEAR SENATOR FEINSTEIN: As City Attorney of the City of Los Angeles I feel compelled to correct the inaccurate and defamatory allegations in the October 27th letter from Speaker Newt Gingrich about Bill Lann Lee.

The Speaker's letter charges that Mr. Lee "attempted to force through a consent decree mandating racial and gender preferences in the Los Angeles Police Department." That assertion is wrong. Mr. Lee participated in two lawsuits against the Los Angeles Police Department several years ago that were resolved by consent decrees, but neither decree mandates the use of racial or gender preferences. In fact, each of them contains provisions forbidding the use of preferences.

What is most outrageous about Mr. Gingrich's letter is his reference to "the allegation that Mr. Lee apparently employed dubious means to try to circumscribe the will of the judge in the case." There is simply no truth to this allegation. The facts are these. This case, known as *Tipton-Whittingham*, is presently in litigation in district court. There are serious allegations of discrimination and harassment being made by the plaintiffs in this case who are women police officers in LAPD. Mr. Lee was not at any time a named counsel in the case, but was associated with opposing counsel because of his involvement in the negotiation of a related consent decree. Neither Mr. Lee nor any opposing counsel attempted in any fashion to thwart the will of the judge supervising the litigation. The matter has been referred by the court to a magistrate judge appointed by the court to assist in the resolution of the case. Each counsel had advised the district judge at all points about the progress of the matter. Upon reconsideration, the district judge elected to assert direct control over the litigation. Nothing in Mr. Lee's conduct reflected any violation of the court's rules, either in fact or by appearance.

Bill Lann Lee and I have been on opposite sides of the negotiating table over the years and we have not always agreed. Yet I respect him for his keen intellect, his profound sense of ethics, and his ability to negotiate an outcome that achieves justice and fairness.

The United States Senate should not countenance the kind of character assassination based on erroneous information that has occurred in this confirmation process. I'm glad I can help clear the record in this regard.

Bill Lann Lee is an outstanding lawyer who embodies the highest ethical traditions of that profession and will be vigilant in his defense of the Constitution and the laws of the United States. He should be confirmed as Assistant Attorney General for Civil Rights.

Very truly yours,

JAMES K. HAHN,  
City Attorney.

Mr. LEAHY. Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### TRIBUTE TO JOHN LUNDY

Mr. COCHRAN. Mr. President, I want to bring to the attention of the Senate the fact that one of our finest and brightest and best-liked members of staff, from the State of Mississippi, is leaving the Senate and going back to Mississippi at the end of this month to join one of the leading law firms in our State. I am talking about John Lundy, who is chief of staff for my distinguished State colleague, Senator LOTT.

John Lundy came to Washington in 1987 to work as a legislative assistant on the House side of the Capitol. He distinguished himself right away with his hard work, his ability to get along with staff members and Members of the House on both sides of the aisle, as well as work effectively with Senate staffers from our State and Members of the Senate.

He had a lot to do with the writing of the 1990 farm bill as a member of the staff of LARRY COMBEST, Congressman from Texas, who is a Member of the Agriculture Committee in the House.

John is originally from Leland, MS. He graduated from Mississippi State University in 1983 with a degree in agricultural economics. After graduation, he went to work as a research assistant at the Mississippi State University Delta Branch Agricultural Experiment Station in Stoneville, MS, near his hometown of Leland. He then worked for a while as a loan officer with a farm credit institution in the Mississippi Delta.

When he joined Senator LOTT's office, he became someone with whom I had an opportunity to work closely over the years. When Senator LOTT was elected majority leader, he made John Lundy his chief of staff. John has been one of my favorites and a good friend to me and to all of the Members of our delegation. We are going to miss him and his lovely wife, Hayley, very much, and their daughter, Eliza. They are moving to Jackson, as I indicated, toward the end of this month.

But I wanted to take this opportunity to let other Senators know

about his decision to go back to Mississippi and to congratulate him on his distinguished service here in the U.S. Senate as a member of our staff and the House of Representatives staff as well, and to wish him all of the best in his new undertaking. I am confident that he will be a tremendous success in his new association with the law firm in Jackson.

We wish him well. We will miss him.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### LANDMINES

Mr. LEAHY. Mr. President, in one of the newspapers I was reading this morning, there was an editorial speaking about the U.S. position in saying that they will work to lead an effort toward the demining of antipersonnel landmines around the world, an effort that is already well underway in a number of countries, which is supported partly by the United States in the millions of dollars in humanitarian demining efforts.

I agree with the President. I agree with the administration's efforts to seek more money for demining.

We have so many millions of landmines in the ground in 60 to 70 countries that nobody even knows how many landmines are out there. Very often the way we find out where they are is when a child or some other non-combatant steps on a landmine, touches a landmine, and is either crippled, maimed, or killed from the explosion.

We also know, whether these are \$3, \$4, or \$5 antipersonnel landmines stuck in the ground, they can cost a considerable amount of money to take them back out depending on where they are—anywhere from an average of \$100 on up to as much as \$1,000 per landmine.

I agree that the United States, as the most powerful and wealthiest Nation on the Earth, should do everything possible to try to take landmines out of the ground. But I note the obvious, Mr. President. It is like trying to bail out the ocean, if you continue to put new landmines down.

Next month, in Ottawa, over 100 nations will come together to sign a treaty banning the placement and use of antipersonnel landmines. One of the most notable exceptions to the signers will be the United States of America. I think that is a bad mistake. I think if the United States wishes to have leadership and credibility on this issue they should do both—help in the demining, but do the right thing, and that is help stop further mining.

Until the use of antipersonnel landmines is treated the same way we treat the use of chemical weapons then we will continue to see them and we will continue to see the use of antipersonnel landmines against innocent civilians. They have become more and more—if not exclusively, at least primarily—a weapon against civilians. Worse than that, they are weapons that stay long after the war is over. Peace agreements are signed, tanks pull away, guns are unloaded, armies march away, and 5 years later a child on the way to school is destroyed and nobody even remembers who was fighting, nobody knows who put the weapon there.

I just mention, Mr. President, while I support our continued efforts to demine and while I take pride in writing much of the legislation to get the money for the United States to be involved in humanitarian demining up to this point, I note it falls short of the ultimate goal until we have a real ban on the use of antipersonnel landmines. I yield the floor.

The PRESIDING OFFICER. The Senator from the great State of Florida.

Mr. GRAHAM. I appreciate the courtesies of my colleague and good friend from Vermont.

#### COMMERCIAL SPACE ACT OF 1997

Mr. GRAHAM. I rise today to speak in support of legislation which Senator MACK and I filed last night, legislation that will bolster one of the most important components of our Nation's high-technology economic future, the space industry.

For more than 40 years, my home State of Florida has been pleased, proud, and gratified to have been the launching pad for our Nation's exciting adventure in space. Our friend and colleague, Senator JOHN GLENN's historic *Friendship 7* mission was launched from Cape Canaveral. So were Neil Armstrong, Edwin Aldrin, and Michael Collins on their way to the first manned Moon landing.

For the last 16 years, the world has watched intently as dozens of space shuttle missions have started at the Kennedy Space Center.

But as we prepare for the increasingly high-technology, dynamic world of the 21st century, space will be more than just a place of exploration. In the 4 decades since the Soviet Union launched sputnik in October 1957, space has become a site for tremendous scientific innovation. Ball-point pens, velcro, and numerous other consumer products that make our lives easier are a direct result of the space program.

Medical research has also reaped tremendous benefits from our time in space. And satellite technology has led to revolutionary advances in the way we forecast weather, protect the environment, and communicate with each other.

Space may also revolutionize the way we transport goods and services and pursue other economic and business opportunities. In recognition of these advances, Senator CONNIE MACK and I are introducing the Commercial Space Act of 1997.

Cape Canaveral is also home to the Florida Spaceport Authority, which is set to launch its first commercial payload from Launch Complex 46 in January 1998. This will be a milestone event in our State's history, and the bill that I am introducing today aims to modernize the laws that govern the United States' emerging commercial space industry.

It is urgent that we develop a clear Federal policy for this important enterprise. For much of the last 40 years, our Nation's experiment in space has been in the exclusive domain of the National Aeronautics and Space Administration [NASA].

The legislation I am offering today recognizes that space is now a public and private sector place and enterprise. It aims to create a stable business environment for an industry that employs thousands of Americans and generates billions of dollars in economic activity each year.

Our bill pursues this goal in several important ways.

First, it will reduce the bureaucracy and redtape that plagues our regulation of the commercial space industry. Currently, the oversight of space-related businesses is scattered among multiple federal agencies, and burdens businesses with complex, confusing, and often conflicting rules. It is not an environment that encourages progress and innovation.

This bill takes the first step toward clarity by requiring each relevant federal agency to clearly state its requirements for commercial space licensing. That requirement will help space businesses in their efforts to raise capital, develop a consistent business plan, and create new job opportunities within the commercial space industry.

Second, our bill encourages federal agencies to act in a more efficient manner by increasing the private sector's involvement in servicing and launching space hardware, in addition to their current role in building rockets and satellites. This will bolster the expansion of the commercial space industry, while at the same time reducing Government costs and saving tax dollars.

For example, this legislation would call for NASA to look at the role the private sector may play in operating, maintaining, and supplying the international space station. It would also encourage the conversion of old ballistic missiles into launch vehicles, a use that will reduce storage costs and provide for less expensive commercial space launches.

Finally, it is imperative that we update existing Federal law to reflect the

rapid pace of technological change. Mr. President, we cannot hope to prepare for the high-tech 21st century if the Federal Government maintains a 20th century mentality. Our laws should be flexible enough to adapt to a world in which new science and technology is created every minute.

These goals will be difficult to achieve, however, if we do not recognize the role of State and local governments in reducing space costs. This is especially relevant to Florida, I am hopeful that our legislation will spur a robust and energized commercial space industry. Within 8 years, the number of launches in Florida are expected to double. But this potential growth can only be achieved if there exists a productive working relationship among all entities involved in the commercial space industry, including state and local governments.

Mr. President, I would like to take a moment to tell you exactly what this legislation will accomplish:

This bill will require NASA to submit a report that identifies and examines the prospects for commercial development, augmentation, or servicing of the international space station by the private sector. Private sector involvement in the commercial space industry is likely to reduce the costs of operating, maintaining and supplying the space station and will allow State governments to act as potential brokers in reducing space station costs.

We amend the Commercial Space Launch Act and to give the Federal Government the authority to license commercial space reentry activities. This is an essential portion of the bill. Without this legal authorization, commercial reusable launch vehicles will not be allowed to re-enter the atmosphere, a restriction that would stymie the realization of important technological developments and investments by the commercial space industry.

This bill reaffirms our Nation's plans to make the Global Positioning System [GPS] a world standard. GPS is a space-based system that individuals can use to determine their precise position on Earth. Although it began as a military/defense system, the GPS applications have expanded to other sectors. In addition, foreign governments are interested in entering this lucrative global market. Therefore, in an effort to protect our economic interests and our national security, it is imperative that we encourage our President to enter into regional agreements with foreign governments to secure U.S. GPS as the unquestioned global standard.

The legislation further requires the Federal Government to purchase both space hardware and transportation services from the private sector. This will encourage innovation within the commercial space industry, while simultaneously promoting greater cost

efficiency and protecting our national security.

This legislation allows the conversion of excess ICBM's into space transportation vehicles. These missiles cannot be used for defense purposes due to the START treaty. The conversion of these missiles could save taxpayer dollars by eliminating storage costs and providing cost effective launches for small scientific and educational payloads.

Mr. President, I was extremely pleased when the House passed its version of this legislation earlier this week. It is my understanding that this legislation will be a priority for the Senate Commerce Committee when Congress returns from recess in 1998.

I look forward to working with Chairman MCCAIN, subcommittee Chairman FRIST, my colleague, Senator MACK, and other members of the committee and the Clinton administration, to enact this important commercial space legislation.

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

#### EXTENSION OF TIME FOR MORNING BUSINESS

Mr. GREGG. I ask unanimous consent the period for morning business continue until 2:30.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### THE BUDGET SURPLUS AND PAYROLL TAX BURDEN

Mr. GREGG. Mr. President, I rise to address an issue which has far-reaching concerns for our Nation. Many of our colleagues have heard of the improving economy and have participated in the improving economy and recognize as a result of this improving economy it is likely that the Federal Government will incur a budget surplus in the very near future. This comes about because of a lot of hard work by this Congress, especially this Republican Congress, in controlling the rate of growth of the Federal Government. It is something that is unusual, obviously, not having occurred in the last 25 years.

Not only will we have a budget surplus, but it is projected by OMB that the budget surplus will continue well into the first decade of the next century.

So, I think that we need to discuss how we address this issue. This is an unfamiliar situation, as I mentioned, for Washington. We certainly do not have much experience in dealing with surpluses so there is naturally some perplexity as to how best to address it. To my mind the answer is pretty clear: The surplus should result in relief to the American taxpayers.

Needless to say this is the right answer on economic grounds. If the Gov-

ernment takes in more revenue than it needs to finance its operation, the answer is not for the Government to spend that; rather, it only makes economic sense to return the extra revenues to the private economy that bears the burden of supporting the Government. Not only that, but in this particular case, the appropriateness of tax relief could not be more clear. Let none of us forget what has enabled Congress to accomplish this goal of balancing the budget. It has in large part been the dramatic growth of the economy.

If the private sector in this country had not come through with a surge of productivity, then the budget negotiators might not have been able to reach the agreements necessary to accomplish a surplus to reach a balanced budget. It would, therefore, be ungracious of us, at the least, not to return that surplus to the taxpayers who have earned it.

I rise, Mr. President, today to voice a specific hope—that this Congress will consider, when that time comes, when we have reached a surplus, including a cut in the payroll tax as the appropriate way to address the returning of this surplus to the American taxpayer.

There are several reasons for this—all of them, I believe, noble. First of all, the payroll tax is the most regressive component of our tax burden. There are no deductions, no personal exemptions in figuring of the payroll tax. It's assessed directly on the first dollar of workers' wages, and from there it goes upward until it reaches the wage cap.

Moreover, the payroll tax has been the fastest growing component of the Federal tax burden. When one includes the employer's share of this tax, we find that the majority of Americans pay more in payroll taxes than they do in income taxes. The payroll tax has grown dramatically from a level of approximately 1 percent for each employee and employer a little more than a generation ago, to today where it is approximately 15.3 percent. So while Federal revenues have stayed roughly constant as a percentage of the National economy, an ever-larger proportion of the burden of taxes has been carried by the wage earner in the form of payroll taxes.

But an equally important point is that these payroll taxes were never intended to finance the general operations of Government, as it is doing today. Quite the contrary. The payroll taxes are supposed to finance the operations of the Social Security system and the Medicare system.

I know my colleagues do not need to be reminded of the enormous unfunded liability that exists with respect to the long-term obligations of the Social Security and Medicare systems. These enormous payroll tax burdens, I regret to say, are not being used to reduce

that long-term liability. Surplus payroll taxes today are used to buy Government securities, which must be redeemed by the Federal Government in the future to pay back Social Security programs. That money will, of necessity, come from taxation again, to create the general revenues necessary to redeem the bonds.

A review of the figures is startling. Right now, Social Security's total income is \$451.3 billion and total outflow is \$370.8 billion. This leaves a surplus in the Social Security funneled of \$80 billion. Of that total, \$43.6 billion is in the form of interest payments by the Federal Government to itself, and the other \$36.9 billion represents the annual operating surplus in the Social Security trust fund.

So each year, we run an annual operating surplus in Social Security that is slightly more than 1 percent of the national payroll. That surplus is combined with interest payments to increase the size of the Social Security trust fund. That trust fund is projected by the trustees to grow each year until it reaches a peak value of \$2.89 trillion in the year 2019.

I ask my colleagues to think about what that \$2.89 trillion means. That \$2.89 trillion is not only assets owned by Social Security; more importantly, it is a debt owed by the Federal Government to Social Security. In order to pay the benefits to future beneficiaries, the Federal Government will need to tax the American public, through general tax revenues, to come up with this \$2.89 trillion.

Every year that we collect these surplus payroll taxes, we create several significant events. We add to the trust funds, and thus we add to the debt owed by the Federal Government. We take payroll taxes from hard-working Americans today and, instead of really saving them, we convert them into a tax burden on the Americans of tomorrow. This certainly is no way to run a government, a country—or a railroad, for that matter.

In order to fully understand the bizarre situation in which we are placing ourselves, I ask my colleagues to consider the trustees' projections for the period 2012 through 2019. In the year 2012, we will see the first year of operating deficits within the Social Security trust fund. That means that, in that year, annual Social Security revenues will amount to less than promised benefits.

In other words, it will require cash from the general Treasury in that year just to meet the current benefit payments to Social Security recipients.

Yet, in that same year, interest compiled by the Social Security trust fund will be an enormous \$140 billion. So we will need to take \$9 billion of that interest payment from the general fund and use it to pay beneficiaries immediately. The other \$131 billion will be

credited to the Social Security trust fund, so that the trust fund will grow, theoretically at least, from \$2.2 to \$2.4 trillion in that year, even as the program is running annual operating deficits. This obviously doesn't work.

Think about what will be happening at the same time. We will need money from the general Treasury just to pay current beneficiaries, and billions in assets will be added to the Social Security trust fund—but that doesn't exist—and the trust fund, continuing to grow, will earn even more interest in the next year, to be paid from the general Treasury.

So each year—from 2012 through 2019—the Federal Government will make larger and larger contributions to Social Security, in current benefit payments and interest payments. In the year 2018, for example, the Social Security operating deficit will be \$147 billion. That means it will have to pay out \$147 billion more than it takes in. So, of the \$171 billion in interest payments that will be due that year from the Federal Government, \$147 billion will be needed right away to pay benefits, and only the remaining \$24 billion will continue to build the trust fund.

It's in the year 2019, however, that the roof really starts to fall in. Then, even with all the interest payments from the general Treasury and all the current payroll taxes and benefit taxation, there will still not be enough money to pay the Social Security beneficiaries, and we will have to begin to redeem the principal on Social Security trust fund T-bills in order to pay the benefits.

Every year that we continue to collect surplus payroll taxes, and thus swell the size of the trust fund, is a year that we add to the unfunded liabilities that we are piling on the heads of our children and their children, the American taxpayers to come.

It is largely for this reason that I believe that payroll tax relief is needed. I have introduced a piece of legislation, S. 321, that would give 1 percent of the payroll tax back to the wage earners; in other words, it would be a tax cut, to be saved in an individually owned retirement account. This would give us a Head Start on prefunding some of the massive liability, by moving it off the Government ledger and into genuine savings, because, you see, the basic problem here is that the Social Security system is a pay-as-you-go system. That creates a huge unfunded liability. Until we start to prefund that liability, we are not going to get out from underneath that unfunded liability. The best way to prefund that liability is to take the surplus that we are presently running in the Social Security system, cut taxes, give wage earners back their money, and allow them to save it for their retirement so that they have a savings account, identified to them, in their name, which they can use to ben-

efit them at retirement and, thus, turn a contingent liability into an actual savings vehicle.

If we were to pass this bill today, S. 321, we would not solve all of Social Security's problems, but it would eliminate approximately 78 percent of Social Security's projected insolvency. That is a pretty good chunk. We would, however, vastly reduce the burden on tomorrow's economy. For example, whereas, under present law, Social Security will absorb more than 17 percent of the national payroll tax base by the year 2030, under this legislation, it would absorb closer to 14 percent. That is a major drop—3 percent—in our national economy, which will at that time be multiple trillions. That is part of the gain that comes from prefunding Social Security's liability, instead of simply continuing to collect and spend surplus payroll taxes, leaving tomorrow's obligations for another day.

It is critical, as we debate the issue of the surplus which is coming, that we make a thoughtful decision on how to handle it. I think a thoughtful decision involves some obvious facts. What is our most significant, looming fiscal problem as a nation? It is the burden of our pension plans, which are unfunded. What is the most significant unfunded pension plan in America? It is the Social Security system.

The second logical effort that should be addressed in addressing the surplus is, who gave us the money in the first place? Who has the best right to claim that money? That is clearly the taxpayers of America. We can address both of these issues by following the course that I have outlined here today—cut the Social Security tax, return it to the wage earner, allow the wage earner to start to preinvest, to preserve for their retirement, with the taxes which are now going into a fund that is on a cash-flow basis. The taxes are now being used to operate the Government, the general Government, instead of being used and identified as the savings of the Social Security recipients. This is a good policy approach to what is looming as one of the major policy debates that we will confront as a Congress as we move toward the next century.

Mr. President, I yield the floor.

Mr. DURBIN addressed the Chair.

The PRESIDING OFFICER. The Senator from the great State of Illinois is recognized.

Mr. DURBIN. I thank the Chair for recognizing me. I thank my colleague for his statement on the future of Social Security. He is recognized in this Chamber as one who has studiously addressed himself to this and many other challenges.

I hope that next year my colleague will lead a bipartisan effort to take a serious look at the future of Social Security and Medicare, and so many entitlement programs that we worry about,

in terms of long-term solvency. I thank my colleague for his remarks. Though I may not agree with every particular, I certainly do respect the fact that he continues to stick with this issue through thick and thin, as he should. The Senate should address it, and, hopefully, we can do it together in a bipartisan fashion.

Mr. GREGG. Mr. President, I appreciate that kind comment. The Senator from Illinois has certainly made a serious effort in a number of areas in this Chamber. I have enjoyed working with him, for example, on the tobacco issues. And I look forward to working with him on this. I also believe this must be resolved in a bipartisan manner.

#### JUVENILE CRIME

Mr. DURBIN. Mr. President, I am, as you know, concluding my first year in the U.S. Senate. Within a few days, we may be able to go home, and the sooner the better.

As I reflect on my first year, I think back on one particular issue, which I didn't anticipate being of great importance and now has turned out to be of major importance on my legislative agenda. I was appointed to the Senate Judiciary Committee and, as a result of that appointment, I decided to really focus on the issue of crime, particularly juvenile crime, in the United States.

This past year, I made my visits back to Illinois coincide with an effort to study the problem of juvenile crime. During the course of 1997, I visited jails and prisons, detention centers, have met with judges and law enforcement officials, have been to drug rehab facilities, have been to many, many schools in the State of Illinois, have met with young people and their parents, and I have tried as best I could to come to grips with some of the problems that we have in this Nation as it relates to crime.

I find it very curious to consider the following: The United States has one of the strongest economies in the world. I daresay that you could not travel across the world and find another country so widely admired as the United States. No matter where you go, people talk about us—the way we live, our music, our art, our culture, our economy. We should take great pride in that. We also know for a fact that, if we were to lift all restrictions on immigration and say the borders of the United States are wide open, we would be inundated with people from all over the world who would walk away from their cultures, their families, and their traditions, many of them just hoping they would have a chance to come to America and be part of this great democratic experiment.

Having said that, though, the one thing that is curious to me, despite all

of these positive things, is, why is it that the United States of America has the largest percentage of its population imprisoned, incarcerated, of any country in the world except one—Russia? Why is it, over the last 10 years, we have seen such a dramatic increase in incarceration and imprisonment in America? Is there something genetic about living in America that leads more people to commit crime? I question that. I don't think that's true. But what is it about our country that is engendering more imprisonment and more incarceration?

Now, let's be fair and look at both sides of the ledger. We have found that, as incarceration rates have gone up and the State and Federal prisons have grown in size, the crime rate has gone down.

So there is a positive side to this. If people who are committing crimes are being taken off the streets to make those streets safer for our families, our communities, and our neighborhoods, that is a positive development. I do not want to suggest at all that we should step back from that commitment. If someone is guilty of crime, they should do the time. It is not just the slogan; it is a fact. And in America, more and more people are doing time.

But is there an answer to this dilemma, or challenge, which goes beyond the obvious, the enforcement of crime, the imprisonment of criminals? Can we as a nation aspire to a goal where we see a continued reduction in crime and a reduction in incarceration? Because imprisonment is a very expensive undertaking for a society. First, we measure it in dollar terms. In the Federal prison system it is probably \$20,000 a year to keep a prisoner there. Roughly the equivalent of what it takes to go to some of the best colleges and universities we spend each year to put men and women in prison and keep them there at the State level. It goes as high as \$30,000 in my own State of Illinois. It is an expensive commitment.

Don't forget this important fact. There is not a person in prison today who didn't get there because he or she created a victim. So in order for that process to work its way through, someone was victimized. Someone may have been killed, assaulted, raped, or burglarized—whatever it might be.

So when we talk about reducing prison populations, it is more than saving money. It is also a question of sparing victims, but doing it in a way that still reduces crime.

I have taken a look in my State at some of the things that are being discussed. I have talked to some of the leaders across the Nation. I have come up with some things that I hope this Congress can address on a bipartisan basis. Let's start at the very beginning.

We now know through research, which has been proven time and again, that one of the most critical areas in

the life of an individual is the very first few months of life. We used to think that those gurgling, babbling little kids were so cute. We would diaper them, feed them, laugh at them, try to guess who they looked like in the family, and we didn't realize that while we were doing that, this child's brain was developing at a rapid pace. In fact, in the first 18 months of life, some 75 percent of a child's brain has developed.

The reason I raise that is because I think there is a link between the development of our children, how well they develop, and what they turn out to be. My parents believed that. I believe that. My wife and I did, as do our children. I think it is a fact.

When I visited the Cook County Juvenile Detention Center about 6 months ago and saw the hallways filled with teenage kids, mainly boys, walking back and forth, it looked like a high school with 14- to 15-year-olds filing back and forth in uniform. But, of course, these weren't just high-school-age kids; these kids had been convicted of a crime.

I asked the prison psychologist. I said, "Who are these children?" He said, "Senator, these children I could describe in about four or five characteristics." First, they come from broken homes, almost invariably. Second, they have a learning disability. They were falling behind in school. They weren't learning as well, either because of poor nutrition before they were born in their mother's womb, or poor nutrition after they were born, exposure to narcotics, exposure to abuse. These children are basically "unattached." That is a term that is used in psychology about which many people would just shake their heads and say, "How could this be?" But it basically means a child coming into this world does not receive the most fundamental and basic emotional bonding with a parent or a loved one.

How many parents automatically, instinctively grab that baby, pull the baby up to their arms and cradle it while they are feeding the baby, nursing the baby, feeding it with the bottle, with the warmth of the mother, or even the father, and a little communication going on there as part of this bonding attachment? These kids missed that. These kids didn't go through this emotional maturation that leads to a normal functioning adult, and, as a sequence of this, they are missing a piece of that.

He said there is something else about these kids, too. He said these kids "don't know how to resolve conflicts." You "Dis me, I kill you. I've got a gun to do it." In America everybody has a gun to do it, unfortunately.

So when I started looking into these "problem children," as we might call them, and then back to the beginning, I started thinking about what we can do as a society to address it. Clearly, we have to start at the beginning.

Now, with more than half of the mothers in America working and relying more and more on custodial care, whether it is day care or babysitters, shouldn't we be asking a very fundamental question as to what kind of care our kids are receiving when they are in custodial care?

I don't think it is any accident that this au pair case in Massachusetts attracted so much national attention. It is a sad reality that we lose children in America every day to abuse and neglect. Yet, this case, which was so prominent in the headlines, captured America's attention for weeks, I think, because more and more people instinctively are worried about their own children in custodial care. You leave them there 8 or 10 hours a day. What is happening to them? Are they safe? Are they being treated right?

So, when the President calls a national conference on child care, I hope that we will look beyond the fact that it is a political setting to the fact that this is a very real family challenge. It is interesting in this Nation that we decided that public education was so important to the future of this country that we are going to make a public commitment to it. We understood that some wealthy parents could afford to educate their own children, but most parents could not. So we said, if we are going to have well-educated children who become good citizens, we as a nation will commit to them. We will commit at every level—local, State, and Federal level—to make sure we have a system of public education.

We have a new challenge, my friends. What about the years before kindergarten? What about these developmental years? What commitment are we prepared to make as a nation to make certain that those developmental years are right?

Some children are blessed to have a parent who can stay home and raise them. I count myself as one of the fortunate parents. My wife was able to do that. I don't think we could have given our children a better gift than to have her there every day while they were growing up, reading to them, living experiences with them, teaching them. But in some homes that can't happen for economic reasons and other reasons that a parent can't stay home.

So, that parent wants to make sure that his or her child also gets good care. You look at day care in America today, and it is a very mixed bag. There are some extraordinarily good day care centers—some private, some public. But let's be honest. There are some that aren't very good at all. There are some that are mere babysitters—diapers, bottles, and little more.

You look at the training requirement. In Illinois, for example, a day care worker needs 2 years of college—an associates degree. That is good, but

it could be a lot better. We could be making sure that the men and women in day care really understand what is going on in that young mind and bring these children along as they should be. But it will cost money. You can't bring people in for that kind of professional training and professional care without paying. Working families say, "That is great, Senator; a great idea. Who is going to pay for it? Who will pay? What is the bottom line?" Honestly, we expect the families to contribute, and they do—many of them making great sacrifices for day care. But clearly there must be more. We as a nation must make a contribution to this, too, to make certain that these children have a fighting chance.

There is another element that I think is important, too. As I traveled around Illinois, I visited a program called Lincoln's Challenge. It is in 15 different States now. The National Guard in Illinois runs this program and invites in 400 students who are high school dropouts in the State of Illinois. They must come voluntarily. They must be between the ages of 14 and 18. They must be drug free and not pregnant. If they then come into the program, they are in for 10 weeks of military style training. They are in uniforms. They shine their shoes every morning, make their beds. It is "yes, sir"; "no, sir" and they go to class. These high school dropouts that other people have given up on are brought into classrooms. In the course of 10 weeks, 71 percent of these kids, high school dropouts, earn the GED degree—in 10 weeks. All of a sudden, they are out of the neighborhood. They are focused. They are in a disciplined environment. And they have people who care around them. It works.

Kids who would have been casualties on the streets of Chicago, or Springfield, now have a chance because of one other factor. One of the important features of this program is one that I have come to believe is essential if we are going to deal with reducing crime and saving our kids. When those young men and women finish this program, they go back to their hometowns, but with one important difference. Each one has an adult mentor. Each one has an adult outside their family that they can call on for advice or encouragement or support, for counsel. "How am I going to get a job? Can I get into the Army? What should I do next if I want to go to the community college?" So there is somebody who cares. Of all of the programs I have seen, the most successful I have run into time and again—whether government programs or private sector—are mentoring programs.

We had a juvenile court judge from the State of Georgia, from the city of Atlanta. I am sure Senator WELLSTONE remembers when she spoke to our conference of Senate Democrats. She told the story of coming out of private law

practice and becoming a juvenile court judge and going back to the big law firm in Atlanta and saying, "I want you lawyers, whether you are corporate or criminal lawyers, to volunteer to come to my courtroom and represent these kids." She knew the kids would get better representation. She also knew something else. Relationships would begin. Attorneys meeting young men and women would start to care. Those young men and women, sensing that caring, would finally have a voice that they could listen to, someone they could talk to.

So, I have come to believe that, as we talk about reducing crime and helping kids, it is not just early childhood development, but making certain that kids, particularly those facing problems, have an opportunity for mentoring.

We also need to think about some basics. Why in God's name do schools quit at 3 in the afternoon? This might have made sense 50 years ago when kids went back to Ozzie and Harriet settings, and mother was home with milk and cookies. But, boy, that is the exception, not the rule. Most kids who are turned loose at 3 in the afternoon have two options: television or trouble. We have to start thinking about school days that reflect the reality of America's families.

Most American families come in at probably 5 o'clock or 6 o'clock, if they are lucky, weary from a day of work. That is the time when they can finally give their children a little bit of attention and, hopefully, have some good time with them. But what happens between 3 and 6? What is happening with these kids? In more communities, more and more that I visit, schools are doing things after the regular school hours: some recreation, some arts and crafts, and music, and some, of course, regular school activities, but a safe environment. Shouldn't that be the first rule that we as a nation adopt? Our kids are going to be safe all day long?

One of the last points I want to make is about prisons themselves. I visit a lot of them. In fact, I went down to the Marion Prison in southern Illinois. It is rather infamous—or famous, depending on your point of view—as having been in a lockdown for almost 5 years now. Two prison guards were killed, and, as a result, most of the prisoners who are brought there spend most of their time in their cells. In fact, the only prisoners there have, first, committed a violent crime to get into prison, and, second, broken a law once they were in prison. So these are a pretty tough bunch of characters.

Listen to what they do when they come to the Marion Federal Prison. The first year of their life there is very predictable. The first year of their life, out of a 24-hour day they will spend 23 hours of that day in a cell alone. They get 1 hour to come out of their cell, but

with no socialization. They don't speak to anyone. The guard watches them as they walk around the yard. If they get through that year and they have not broken the rules, then they start bringing them out and giving them a chance to take a little course here on this, or go to a prison industry, or maybe eat in a room with some other prisoners.

They have a dramatic success rate. You can imagine this is pretty tough. It is one of our toughest Federal prisons.

As I talked to the warden and the officers there—and I want to give high praise to them because I think they run a very good operation—and talked to people in other prisons about who these prisoners are and whether they are likely to come back, there is one factor that just comes roaring through at you. That factor is this: If you invest in educating these prisoners while they are in prison, the likelihood that they will return to prison is cut dramatically. There is one in four chances that they will be recidivists, commit another crime and come back, if you educate them.

Unfortunately, we as a nation for whatever reason, budgetary or otherwise, have not made this commitment to education. We somehow think that we are punishing the prisoners by not making education classes available so that they can become literate, so that they can develop a skill. I am not so sure we are punishing the prisoners as much as we are punishing ourselves. These prisoners, most of them, will be back on the street and without an education and without basic skills, I am afraid they are destined to commit crimes. In fact, statistically we know they are, by a rate of 4 to 1, from those prisoners who pick up education and skills. We have not made that commitment in our prison system and we should. It is absolutely essential that we do it.

I went to the juvenile maximum prison in Illinois and met with the principal of the high school there. And I looked at all of the young men who were in the classrooms at this prison, and I said, "How is this working out?" He said, "Well, amazingly well. Most of these young men"—all men at this prison—"missed something in their basic education and became so frustrated that they basically dropped out; they stopped paying attention and fell behind." He said, "We test them to find out what they missed. We go back," he said, "and fill in that gap and they come roaring forward toward a GED." To many of them, it is sad that it took this track for them to reach this fulfillment, but it is a fact and one that we should reflect on, how time spent in prison, if it is done constructively, can start to turn a life around, can make this a safer America and reduce the number of victims that we might see.

People think that in an age where all we talk about is balancing the budget

many of us in Washington really don't reflect enough on some of the important social goals we should have in this country. I don't think there is anything more important than our children, and if it means making certain that we have quality day care for childhood development, if it means making certain that we are committed to a school day that reflects the reality of our families, if it means making certain that the kids who need someone to talk to have an opportunity, whether it is through Big Brother, Big Sister, the Boys and Girls Clubs, whatever it happens to be, if it means making certain that our prison system now starts to be more responsive to real human needs, I think those are things we as a Senate and a House should address.

I hope that next year, even in a busy election year, we have the time to do just that.

I want to address two other topics very quickly. I see my friend from Minnesota is here. I just want to address them very quickly because they are important and I hope somewhat timely.

#### NOMINATION OF BILL LANN LEE

Mr. DURBIN. Mr. President, late this week we will have an executive committee meeting of the Senate Judiciary Committee. We will return to a nomination made by President Clinton, one that I think has become a source of major controversy. The gentleman's name is Bill Lann Lee. Mr. Lee has been named by the President to be head of the Civil Rights Division of the U.S. Department of Justice.

I had never met Bill Lann Lee until about a month ago when he came by my office. He made a very positive impression in the short time we had to speak to one another. Then I read his background and sat through his confirmation hearing, and I want to say that I hope Mr. Lee will get the chance he deserves.

Bill Lann Lee is the son of Chinese immigrants who came to this country to New York virtually penniless. His mother and father started a hand laundry. He and his brother, who is now a Baptist minister, worked in that laundry with their parents. His mother sat, as he said, in a front window of the laundry every day at a sewing machine. His father was back doing washing and ironing, refusing, incidentally, to teach his sons how to iron. That's the major skill in a hand laundry. He didn't want his sons to know how to iron. He didn't want them to work there. He wanted them to think beyond the laundry.

When World War II started, Bill Lann Lee's father, who was 36 years old and could have escaped the draft just by claiming an age deferment but did not do it, volunteered and went in the Army Air Corps and had a very inter-

esting experience because he came back from the war to his family and said, "That was a good thing to do, not just for the Nation but good for me."

For the first time, Bill Lee's father said, he was treated like an American, not like someone from China living in America. But when he came back from the war, as a returning veteran after World War II he found that job discrimination and housing discrimination was still very, very strong against Chinese-Americans. So he returned to his hand laundry but more determined than ever that his sons would have a better chance.

When Bill Lann Lee reached college age, it happened that Yale University decided they wanted to diversify their student body. They gave him a chance and said come to Yale and see if you can prove yourself. Well, he sure did. He graduated from Yale with high honors and then went to Columbia Law School and graduated with high honors.

With that kind of background, Bill Lee could have easily gone with a major law firm in New York, Los Angeles, wherever he happened to want to live, but he didn't. Bill Lee had learned a lesson in life, a lesson from his parents, and he decided that he wanted to fight discrimination. So for 23 years he has worked for the NAACP legal defense fund filing lawsuits when people are discriminated against.

The interesting thing about it is, when you think of these lawsuits, many times they are the most controversial lawsuits you can imagine. You know the headlines in the papers when they start talking about housing questions and school questions and questions involving gender or race or religious persuasion. Those are tough cases. But out of 200 cases that Bill Lee handled, only six ever went to trial. He was able to work out agreements in all the other cases.

In fact, one of his leading opponents, Richard Riordan, who is the Republican mayor of Los Angeles, wrote a letter about Bill Lee and said, "I was on the other side of a lawsuit, and I want to tell you something. We never would have settled it without Bill Lee there. He practices mainstream civil rights law."

I tell you, my friends, he is exactly the kind of person we need serving in the Department of Justice as the representative of the Office of Civil Rights. But I am sorry to report to you that in the last week some extreme political folks have set their sights to try to nail Bill Lee. They are trying to stop his appointment as the head of the Civil Rights Division, and that is an unfortunate development. It is unfortunate because, first, all he is asking is to be judged fairly. That is all he has ever asked in his life. And second, the things they are saying about him really do stretch the truth.

One of the leading conservative columnists in America, George Will, a man whom I really respect not just because he was raised and went to school in Illinois but because I think he is a pretty bright fellow, wrote a column in the middle of October and said we should turn down Bill Lee as "a payback"—his words, "a payback"—because the Senate Democrats, when they controlled the Judiciary Committee, turned down one of the civil rights appointments of a Republican President 10 years ago.

Please, let us not do that to Mr. Lee. Let us not do that to the Senate. Let us give him his chance to stand on his own feet and have an opportunity to serve this country. And so I hope those of you who think that when the Senate goes home and the House adjourns our work is done will realize there are still many men and women waiting for confirmation and one of the most important and highest is Bill Lann Lee. He would be the highest-ranking Asian American ever appointed, and I am glad that the President has named him and I hope that we can find just two, just two Republican Senators on the Judiciary Committee who will join the Democrats in supporting his nomination.

#### CONSOLIDATION OF FEDERAL FOOD INSPECTION SERVICES

Mr. DURBIN. Mr. President, yesterday I introduced with Senator TORRICELLI a bill, which I hope the Senator from Minnesota will join me in sponsoring, that would consolidate all of the food inspection services of the Federal Government in one independent agency.

Mr. President, 33 million Americans each year have some sort of a foodborne illness, and out of that number some 9,000 will die. You read about the cases, whether it is E. coli or salmonella. We have a good food inspection system but it can be much better. Our food inspection system evolved from Upton Sinclair's novel "The Jungle," when we decided the Federal Government had to step in and make sure the food, meat in particular, that came to our table was safe for our families. But now I am afraid we have gone overboard. We have 12 different Federal agencies involved in food inspection—12—6 in a major way.

I am joining with Congressman VIC FAZIO of California to consolidate these into one independent agency which will be guided by the best science in keeping food safe for Americans. I hope that this, too, will be part of our agenda next year when we return to Washington, DC. It is an important issue, not just for the industries that are affected but for every family that wants to be certain when they buy that meat or poultry, fish or whatever product it might be, fruits and vegetables and be-

yond, it is safe for their family to consume.

Mr. President, I yield back the remainder of my time.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER (Mr. THOMAS). The Senator from Minnesota.

Mr. WELLSTONE. Might I ask what the parliamentary situation is?

The PRESIDING OFFICER. It is the Chair's understanding we are in morning business. Senators are allowed to speak for up to 10 minutes.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that I be able to speak for 20 minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. WELLSTONE. Before I start, I also wanted to find out how long we will be in morning business and whether or not there will be opportunities to introduce amendments to the fast-track bill?

In other words, I understand the amendment will be laid aside, but I want to know whether there are opportunities to introduce the amendments to fast track.

The PRESIDING OFFICER. That is a parliamentary issue that will be handled by the majority leader. We are not prepared to answer that question.

Mr. WELLSTONE. I will just say in the Chamber and I will check with the leader, I do have an amendment on human rights that I would like to offer. We may or may not get to fast track, but this would be an opportunity I think to have the discussion.

#### WELFARE, HEALTH CARE, AND CAMPAIGN FINANCE REFORM

Mr. WELLSTONE. Mr. President, I wanted to take this time Sunday afternoon as we approach the end of this session to talk about some unfinished business for the Congress and I think for the Nation. I really was moved, and I do not usually use that word, by the eloquence of my colleague, Senator DURBIN, from Illinois. As I came in, I heard Senator DURBIN talk about children and talk about early years and talk about early childhood development and talk about whether or not we as a nation are going to make a commitment to affordable child care.

I want to talk about a really difficult issue for the Senate, for the Congress, and I think for the White House, and when we come back for me this will be one of the first items of business. I want us to have discussion and I would like to see whether or not we would be willing to perhaps take some important action.

I am talking about the bill that was passed which was called welfare reform. Mr. President, some of what was in that bill represented over \$50 billion of cuts in the name of deficit reduction

in the major food nutrition program in the country, food stamps—20 percent cut for families, most of them working families, most of the recipients children. And the other part was the cuts in benefits to legal immigrants, some of which has been corrected, some of which has not.

What worries me—and I have traveled the country and spent quite a bit of time in low-income communities. I haven't just focused on welfare, but I have been to the delta in Mississippi with Congressman BENNIE THOMPSON; I have been to eastern Kentucky, to Letcher County, Whitesburg, KY; I have been to Chicago in housing projects, and, of course, I have been in Minnesota, both urban and rural, and I have been to L.A., East L.A., and Watts. One of the things that worries me is that I see in many articles and too much of the media coverage and certainly too much of what I hear from both Democrats and Republicans in Washington that welfare reform has been a success as defined by reduction of caseload. Any Democrat, any Republican, or any fool can knock people off the welfare rolls. That has nothing to do with reform. The only way reform can be defined is not by reduction of caseload but by reduction of poverty. Are these families, in the main headed by women and children, better off?

I heard my colleague from Illinois talk about child care, and if my colleague was here I would tell him about some just very emotional experiences that I have had, meeting with some of the women who have now been told they are to work, and they work. But their concern is about what happens to their children. You know, just because they are poor, just because they are welfare mothers, doesn't make them, or doesn't make their children, any less worthy, any less important.

In Los Angeles, for example, in L.A., one city, they have a waiting list of 30,000 families for affordable child care. That is before the welfare bill. The question I ask colleagues is, where are these children? Fine, the mothers are now working. Do we know where the children are? Where are they? Who is taking care of them? Is it developmental child care? Is it just custodial? Or are they even in harm's way? We don't know. But we should know. We passed the legislation.

I met a woman, and this story of this one mother unfortunately is the story of other mothers. She said to me, "I want to work." By the way, almost all the people I meet want to work. That's a big thing to people in our country, to be able to work and make a decent wage and support your family. And also to be able to give your children the care you know they need and deserve. But I am meeting some of these mothers. We told them we would sort of delegate this to the States and they would work.

Here is what they say to me, what this one mother in L.A. said. I then visited actually where she lived, public housing in east L.A. She said to me: "I want to work but I am so frightened because my first grader goes home alone every day. I worry about what happens to her from the time she leaves school to when she gets back to the apartment"—public housing. "There are gangs, there is violence. I tell her to go into the apartment, lock the door, and don't take any phone calls."

I would like to ask Senators, how many of you would like for your first graders, whether they are your children or your grandchildren, to go home alone? Actually, to go home to wherever you live, much less in the neighborhoods and communities that are so dangerous. In the debate that we had on welfare reform, did anybody ever talk about these children? I never heard a word.

We talk a lot about early childhood development, which is very important. We talk a lot about after-school programs for teenagers, which is critically important. But what about these first and second graders? I think there are too many children in our country right now, because of what is happening around the country, who are in danger. And I think it is our responsibility to know what is going on. Speeches do not suffice.

When I was in Letcher County, KY, I spent quite a bit of time with Carroll Smith, who is the county executive, Republican—county Judge, which is like the county executive; just a great, great guy. It was interesting, though. He and others were saying to me, did anyone ever mention the word "rural" when you all passed that bill? Because in the absence of access to capital and our seeing economic development in our community, we don't know where the jobs are going to be.

The Wall Street Journal had—I haven't even had a chance to read the article from cover to cover—a very long, extensive piece about Delta, MS, where lots of people can't find jobs, or have to drive 60, 70 miles. Again, you have two things going on here. No. 1, there are not the jobs where people live in rural America. No. 2, the jobs that quite often these women are getting maybe pay \$6 an hour. They are going to be worse off than they were before, because there will not be health care after a while, and they don't know what to do by way of child care.

It seems to me that one of the things that we need to do is at least call on the States to provide us with an evaluation, maybe every 6 months or every year, on how families are doing toward attaining the goal of economic self-sufficiency. Because if we don't do that, 4 years from now all these families are off all assistance. Don't you think, before we have some tragedy, we ought to

at least know what is going on? I am going to have an amendment, a piece of legislation which I will bring to the floor of the Senate and we will have that vote.

Mr. President, I go to the communities. It has been very moving. I hope to get a chance to write a long piece about what I have learned from people. But I don't find that the issues that people in low-income communities are talking about are really different than issues that other working families are talking about. The first question is: Where are the jobs that pay a decent wage? This is still one of the most important challenges for most families in our country. It is an important challenge in poor communities: Where are the jobs? And we are going to have to have an urban jobs program if we are serious about reducing poverty and making sure that families have a chance. Also, we are going to have to do a lot better by way of making sure that, if people work 40 hours a week, 52 weeks a year, they are not poor. If people play by the rules of the game and they work hard, they ought not to be poor. That is where child care fits in. That is where health care fits in. And not just for low-income families, but for the vast majority of families in our country.

I heard my colleague from Illinois speak. I was so pleased to hear what he said. But I would like to challenge both Republicans and Democrats, because I think that what is going on here is we have a debate that, in a way, may take us nowhere, or at least certainly not connect very well with a lot of people in our country.

On the one hand my friend Jeff Faux has written a very interesting piece where he argues this. I will take a piece of what Jeff says. On the one hand, for example, we have the majority party, the Republican Party, which argues—at the risk of getting the Chair angry at me—which argues, when it comes to some of these most pressing issues, for example affordable child care, there is nothing the Government can or should do. My argument is that is a great philosophy if you own your own large corporation and you are wealthy, but it doesn't work for most of the people in the country. On the other hand, you have the Democratic Party that says we are all for the children, we are all for education, we are all for job training. But, do you know what? Politically there is not anything we can do either. We just have to cut taxes because politically that is the only way we can make it. In which case neither party has a whole lot to say to the very families we are talking about, at least if you get beyond speeches and conferences.

We have had enough speeches. We have had enough conferences. The question is whether or not we are going to go beyond the speeches and the con-

ferences and dig into our pockets and make the kind of investment that we need to make as a nation. I think the question for all of us is how can we renew our national vow of equal opportunity for every child in America? That is the goodness of our country. That ought to be the central goal of public policy here in the Congress. I make a commitment, as a Senator from Minnesota, to bring that kind of legislation out on the floor, working with others, with the financing, with the investment, so this isn't empty rhetoric. We ought not to separate the budgets we introduce from the words that we speak.

Finally, let me make one other point. My training is as a political scientist—I was a college teacher before I became a U.S. Senator—not as a political economist, although I am interested in political economy. There is something very interesting and very important going on in our country, which is now we have reports about record low levels of unemployment. The GDP looking great. Productivity is up. But real wages of most families are down. The economy of American families is not measured by GDP, it is not measured by all these official statistics. It is measured by whether or not people can purchase the things that make life richer in possibilities. It is measured by opportunities. It is measured by security or insecurity. And it is measured by our expectations for our children and our grandchildren. And by that criterion, a whole lot of families could be doing better and we could be doing better as a nation.

One of the issues that I think is a living-room issue in America, a kitchen-table issue, that we are going to have to have the courage to take on, is health care. We can have patient protection—I am all for that. We can have provider protection—I am all for that. We can try to control some of these large insurance companies that own and control most of the managed care plans—I am all for that. But the fact of the matter is, we have now moved from 40 to 44 million people or thereabouts without any health insurance since we first started talking about this 3 years ago; more than twice that number of people in the country, not just low-income—either people are not old enough for Medicare, and Medicare doesn't cover prescription drug costs, it doesn't cover catastrophic expenses, or people aren't poor enough for medical assistance and they are not lucky enough to be able to work for an employer who provides them with good health care coverage.

We ought to have humane, dignified, affordable health care for every man, woman, and child in our Nation. For me, next session, that will be my priority—with the financing, clear with

people in the country how you pay for it. But I am telling you, large insurance companies don't like it. And there are a whole bunch of other powerful interests that don't like it. But the majority of people in this country know that this system is in big-time crisis. It is time we get back to this issue as a Congress.

I really do think that, as we think about what we have done and what we have not done—I will just talk a little bit about what we haven't done in the few minutes I have left. I think these standard of living issues are the critical issues. I think, unfortunately, Jeff Faux is right, neither party is telling the story that gives people any confidence that much is going to happen that is good for them. And I think we could do better, all of us.

And in addition, the one other issue that we did not get the job done on, and it is critically important, is campaign finance reform. When I go into cafes in Minnesota, this is one thing I don't gloat about. I am not even pleased to say it, but it is true. Because it is aimed at me. It is aimed at all of us. The vast majority of people I talk to in cafes believe both parties now—they just sort of view the Government as being controlled by wealthy financial interests. They just feel locked out. They feel like it is for big players and heavy hitters. And, you know what, all of us have to raise money. That's what we have to do. That's not the point. I did. We all do. That's the system right now.

We should change this. We didn't, not this time. We come back to it next year. But this is a real important issue and it is not that people don't care about it. They care about it deeply and desperately. And I think they want to believe in the political process. They want to believe in Government. But we are going to continue to see a tremendous amount of cynicism and apathy and disengagement and disillusionment unless we get as much of this money out of politics as possible. We know what the criterion is. We have talked about it enough. It is time to really move forward. It can't just be like a piece of legislation where we maybe do one thing but then all the money shifts somewhere else. Then people will just be even more disillusioned. I think this is a core issue.

There are a lot of good things all of us could do here. A lot of good things get trumped by big money in politics.

Mr. President, I will conclude—how much time do I have left?

The PRESIDING OFFICER. The Senator has 1 minute and 41 seconds.

Mr. WELLSTONE. Let me just conclude by thanking all the conferees on the Labor, Health and Human Services appropriations bill, especially for all the women and men in the Parkinson's community who worked so hard to make sure that we have some clear di-

rective to NIH about making sure that there will now be some real investment of resources in research to find the cure to Parkinson's disease. It has been one of the greatest lobbying efforts I have ever seen here. It was citizen lobbyists, people who struggle with this disease, who once upon a time were kind of embarrassed to be public and be out and about. People have been there.

All of you in the Parkinson's community, you have set a really good model for the Nation. Because if we had more people like you coming to Washington, DC, it would be a better Congress.

We need to get a lot more ordinary citizens coming to Washington or meeting with us back in our States. I just hope more and more people will be like that. It was a really fine victory.

Mr. President, I presume then there will not be an opportunity—my colleagues are on the floor as well—we are not going back to fast track, is that correct?

The PRESIDING OFFICER. Correct.

Mr. WELLSTONE. And there is not an opportunity to offer amendments? I ask the majority party as to when I might have an opportunity to offer an amendment to fast track? I will do it later—I see my colleagues on the floor—but will there be an opportunity?

The PRESIDING OFFICER. As was indicated to the Senator, the Chair does not think that has been arranged, and it will depend upon the instructions from the leader.

Mr. WELLSTONE. I yield the floor.

#### EXTENSION OF MORNING BUSINESS

Mr. ROTH. Mr. President, I ask unanimous consent that morning business be extended until 3:30 p.m.

The PRESIDING OFFICER (Mr. KYL). Is there objection? Without objection, it is so ordered.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

#### UNANIMOUS-CONSENT REQUEST— H.R. 2676

Mr. KERREY. Mr. President, I ask unanimous consent that the Senate proceed immediately to H.R. 2676, the IRS Restructuring Act of 1997 by discharging this legislation from the Senate Finance Committee to which it was referred on Thursday; that the bill be read a third time and passed and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Mr. ROTH. Mr. President, I rise to object to the unanimous-consent request made by my distinguished colleague, Senator BOB KERREY. The process of his seeking a UC agreement and my objecting is into its fourth day

now. I do want to say publicly that I appreciate the civil and courteous manner in which the process has unfolded.

It is my opinion that what unites Senator KERREY and me is more significant than what divides us. His successful commission has done essential work in uncovering weaknesses and shortcomings within the IRS. The 3 days of hearings we held in the Finance Committee disclosed others. Both of us are well aware of the changes that must be made within the agency.

Senator KERREY is right when he says the vast majority of our colleagues would vote to pass the legislation which passed the House by a vote of 426 to 4. Indeed, when one looks at the abuses and inefficiency of the IRS, it is hard to resist the argument that any reform is better than no reform at all. Senator KERREY is correct in saying that the legislation he proposes would make important reforms to the IRS, but he is also right in saying that the legislation is not complete. It has weaknesses, and I must emphasize very, very serious weaknesses.

Mr. President, the simple truth is that I am not willing to compromise on real reform. I am not willing to rush into legislation that does not go far enough to address the changes that must take place within the agency, especially when rushing in will adversely impact the potential of passing real reform later. The fact is, this reform falls short of what we need to accomplish.

The New York Times reports that "tax experts across the country say the practical benefits of the [legislation advocated by Senator KERREY] will be minor." According to Stuart E. Seigel, a former chief counsel of the IRS, "Most of the bill's provisions are very limited and will not have a significant impact on most taxpayers."

Senator KERREY suggests that each day the Senate delays in passing what the New York Times calls minor changes, some 150,000 people will be affected as they continue to receive notices from the IRS. Yet, another report in the Times makes it clear that "the provisions in [this 'watered down'] bill are [so] narrowly drawn [that it] would affect relatively few people."

Senator KERREY himself has made it clear that "this [bill] doesn't go far enough." The Wall Street Journal of November 3, 1997. And Newsweek reports that the strong measures aimed at reform have been eviscerated.

The question all of this begs is simple: Why compromise? If Senator KERREY suggests this bill doesn't go far enough, if we have a growing consensus among tax practitioners, taxpayers, and the media that the bill is deficient, and if we have the conviction in Congress and the sentiment at home that something significant must be done, why are we willing to compromise?

The bottom line, Mr. President, is that I am not willing to compromise.

Some would suggest that half a loaf is better than none; that we can come back and stiffen up this legislation later.

Well, we know where that will lead. If we pass this reform legislation, then those who are not anxious to pass further reforms will resist a new bill. The truth is that we will get only one real chance to reform the IRS, and we had better do it right.

There are several significant issues we need to address. We should begin by giving the oversight board called for in this legislation, and if we adopt such a board, the authority to look at audit and collection activities. More than 70 percent of Americans think poor treatment in audits occurs fairly regularly, yet this legislation expressly prohibits the oversight board from having jurisdiction over audits and enforcement.

This is just the beginning, Mr. President. Let's include a provision to ensure that all taxpayers have due process and that the IRS does not abusively use its liens-and-seizure authority. Let's give the taxpayer advocate greater independence. Likewise, the IRS should have the benefit of an independent inspector general. Let's strengthen the legislation to require signatures on all IRS-generated correspondence, and let's curb the use of false identifications by agency employees and ban the use of statistics and goals in determining their performance.

These changes are only a beginning of what needs to be done. Yet, the legislation advocated by my distinguished colleague does not address even these most fundamental needs. If we are unprepared at this time to add these things, then let's be patient. Let's not pass a bill that Senator KERREY has already suggested "doesn't go far enough."

The PRESIDING OFFICER. Objection is heard.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, first of all, let me return the compliment. I have high praise for the chairman. He has done exceptional work on this issue, especially the 3 days of hearings which penetrated the section 6103 veil and issues that are protected under normal circumstances by privacy laws.

Let me also respectfully disagree with his characterization of this as a watered-down bill, citing the Washington Post, the New York Times, et cetera. They are apt to object to many of the things that the distinguished Senator from Delaware wants to do as well.

This piece of legislation has the full endorsement of America's accountants, America's enrolled agents, the National Federation of Independent Business, the National Treasury Employees Union. It is by no means small reform.

I intend this afternoon to go through the bill. It was sitting at the desk a couple of days ago. We could have taken this thing up a couple of weeks ago and had a full debate on it. We would have had plenty of opportunity to amend it, to improve it and to change it, but we didn't. I am going to go through this bill and let my colleagues decide on behalf of their taxpayers whether or not they want to change the law.

It looks like we only have a day or two left, but all we have to do is bring it up here to the floor. All we have to do is have no objection raised, and we can pass this piece of legislation. I am going to show some of the new things this law would provide to the American taxpayers as they consider whether or not this piece of legislation is watered-down.

Mr. REID. Will the Senator yield without losing his right to the floor?

Mr. KERREY. I will be pleased to yield.

Mr. REID. Mr. President, I appreciate my friend yielding. I have another matter to attend to in a short period of time. I wanted to come to the floor and spread on the Record of this Senate that the Senator from Nebraska should be commended and applauded for the work that he has done on this issue. He chaired the Entitlement Commission, of which I had the good fortune to serve as a member. It was a tremendous experience. One of the things I will never forget is the testimony that was taken during those hearings about the Internal Revenue Service.

We have heard figures that it costs at least \$200 billion a year just for people to fill out their forms. That is only part of it. We had testimony during those hearings that the cost of the Internal Revenue Code itself is up to \$400 billion. It is lots of money, we recognize that.

I worked hard to write the taxpayer bill of rights. It is now the law. It was a help, but it didn't go far enough. We need to do better.

What this legislation will do—which has received the almost unanimous support of the House of Representatives, 426 to 4, and the President of the United States supports this legislation—this legislation would give the Internal Revenue Service some meaning. The employees of the Internal Revenue Service support this legislation, former Commissioners of the Internal Revenue Service support this legislation. The Senator from Nebraska has done the right thing by moving beyond the Entitlement Commission, to the Kerrey-Portman Commission which studied specifically the Internal Revenue Service, and now is responsible for the bill having passed the House and now in the Senate where it should pass.

This is good, elementary legislation. It is legislation that will make the

American people feel good about an important institution of Government, the Internal Revenue Service, which is now a hiss and a byword. People should not feel that way about the Internal Revenue Service, even though they do. This legislation, which should be passed by unanimous consent, would allow the American public to feel better about the Internal Revenue Service.

So I say to my friend from Nebraska, you are on the right track again with this legislation. This is something that is necessary, it is important, it is important because it creates this oversight board. It is important because it allows recovery of attorneys fees. It allows recovery of damages. There is a toll free number to register complaints. It improves the operation of the Taxpayer Advocate Office. It is good legislation. I do hope the Senator will go through this legislation and explain to the American public why it is so important we pass it and pass it now.

Mr. KERREY. I thank the Senator from Nevada, especially for his earlier work on the taxpayer bill of rights and taxpayer bill of rights II. Prior to the enactment of those laws, the taxpayer had almost no authority at all coming up against the IRS. With the enactment of those two bills, the taxpayer now has a substantial amount of power which was previously denied, and those who predicted there would be a big decline in collections—which, as you know, was the case—those predictions did not turn out to be true.

This really gets right to the heart of it. This is not just an agency collecting money in order for us to be able to pay the bills, whatever it is we declare in law we are going to use taxpayer money to pay for. This really gets to the heart of Government of the people, by the people, and for the people. If people don't trust that they are getting a fair shake with the tax laws, with those 8 out of 10 who voluntarily comply—actually 83 percent of the American taxpayers comply, down from 93 percent 10 years ago. To those 83 out of 100 who voluntarily comply, they need to know, are they going to get the information they need to pay their taxes; are they going to get a fair shake if there is a dispute; are they going to face an agency that has the capacity to be managed in a way that is comparable to what the private-sector financial institutions demonstrate on their behalf?

The answer right now is no in all three cases. More people pay taxes than vote in this country and their dissatisfaction with this agency is broad, it is deep and it is urgent, not just for the sake of being able to say we have done all we can to get this agency running correctly, but it is essential for the sake of people's confidence in their Government that we enact these changes.

I heard, again, the distinguished chairman of the committee, whose willingness to hold hearings on this subject has been terribly important to examine beyond the privacy veil some of the additional problems that go on with the IRS, say this is a watered-down piece of legislation. That is not true, Mr. President. It may be true in the eyes of people who are opposed to the bill. Indeed, of the four opponents of the legislation in the House—426 voted in favor of it, 4 voted against—the people who voted against it thought it went too far.

He cited yesterday, and again today, editorials that were objecting not to the bill because it didn't do enough, but because it went too far. These are people who don't want change at all. That don't want any change in the way the IRS is run. They think it is run just fine.

So for those of us who have heard our citizens say that they call the IRS up and they can't get an answer to what becomes one of the most important questions they have when they are doing financial planning—which is, how much do I owe the Government?—for those citizens who find themselves in receipt of a notice of collection because they have been told that they haven't paid enough and find themselves wondering whether or not they are going to be able to withstand the IRS's assault on them, and for those who watch this agency continue to try to come into the electronic world and fail time after time after time, for all those and many more besides, this piece of legislation solves their problems. It solves their problems, Mr. President.

I suspect that it is not likely that my colleagues on the other side of the aisle are going to come down here and say, "For gosh sakes, let's get this thing passed." I mean, on the House side it has the support of the Speaker, of DICK ARMEY, of BILL ARCHER. In fact, the percentage of Republicans supporting it in the House is 100 percent. The only people who opposed it are those who believe this legislation has gone too far, not that I did not go far enough.

There are five titles, Mr. President, in this piece of legislation. It is again worth noting, for those who say, "Well, can't we just hire a private-sector person, as we just did with Mr. Rossotti to run the IRS? Isn't that enough? Don't we just need to manage it a little better?" you know, this is a nation of laws. The IRS doesn't exist because somebody decided to put it out there. It was created by the U.S. Congress. It operates as a consequence of what the law says, not just the Tax Code but the other laws that enabled that agency to be created in the first place. So it is a creature of law. It is the law that determines whether or not we are going to be able to get satisfaction for our citizens.

So for those who are wondering why we are talking about the law here, we are talking about the law because the IRS was created by the law, and many things that people have come and asked for, the IRS can't do because the law does not allow it. So we have to change the law in order to be able to do the things that people have been coming to us saying needs to be done.

Mr. President, title I is called the "Executive Branch Governance And Senior Management of the Internal Revenue Service." It sounds innocuous enough. Indeed, most of the debate about this piece of legislation, regrettably, has been focused on the first half of title I, and that is the executive branch governance.

There was resistance early to having a public board governing the IRS and have control and authority over the IRS. We finally persuaded the President that this was a good idea. This public board does have real authority to develop a strategic plan to make budget recommendations and make comment on the acceptability of the IRS Commissioner—tremendous authority under the law.

There are some people who would like to go further. As I said, most of the people that have looked at this, if they have any objection at all, they object to it going too far. They object and say that the President should not have agreed to it, that he should not have said yes to us in this regard.

We felt that having a public board—in this case a 9-person public board—with authority over the developing an strategic plan was crucial in order to be able to develop some consensus between the Congress and the executive branch about what the IRS was going to do.

What is the plan? If you don't have a plan, then it is going to be very, very difficult to have any kind of an implementation strategy.

The distinguished chairman says they want to be able to go and look at audit information. I do not believe this board ought to be looking at returns, nor do I think it ought to be getting into the details of audits. Should it be able to look at the standards of audits? Absolutely.

Indeed, in one of the other titles of this legislation we require the IRS to publish the standards of audits. If people say, "Gosh, don't they already?" I say, no. I say to citizens who are concerned about this, we had only one full study on the basis of audits, the way audits are conducted by the IRS, only one study by a woman at the University of Syracuse who got the information through a Freedom of Information Act request.

And every time she publishes her report, which is highly critical of the IRS—saying that the audit is done on one basis in Arizona and a different basis in Nebraska, that their subjective

determinations are rampant throughout, that there does not appear to be consistency from one State to another, that it depends on where you live as to whether or not you are going to be audited, all kinds of criticism of this audit—every time she surfaces those criticisms, the IRS attacks her. "Oh, no. You're wrong. You're just some flake up there at Syracuse. Don't trust the information." We have all heard that before.

When you have an agency like the IRS, they are able to say they have the power. Since they have the information, they can just say the citizen is wrong.

This law requires the IRS to publish the standards of their audits. Let us decide. Let the citizens decide. Let the people examine this information to determine whether or not there is an objective basis for the audit and whether or not the public supports it. Don't let the IRS sort of do it on their own because it leaves open the possibility that you get what we have right now, which is a very substantial lack of confidence from one State to the next as to whether or not the citizen, the taxpayer is getting a fair shake. Again, back to what I said before, this is the way the IRS strikes at the heart of citizen confidence in Government of, by, and for the people.

We are not talking about reform in the EPA here or the USDA that touches a much smaller number of people or even the Federal Election Commission that touches only individuals who chose to run for office. This agency touches almost every single household. Every single American has some contact with the IRS on an annual basis.

The second half of this title which is crucial—and this is one that if I ever come down here and offer my unanimous consent request, and the bill gets discharged, and we vote on it, my guess is it is going to go 100 to nothing, or close to it. And one of the reasons I believe that is the section in title I that deals with management of the Internal Revenue Service senior management.

People are surprised when they hear that the Commissioner has no authority to hire, to fire, to bring on their own team. Now, we make certain that veteran preferences are maintained, that the Commissioner has to follow the employment regulations of the Federal Government, especially the civil rights regulations. But significantly, though, this strengthens the Commissioner's ability to be able to manage, to be able not only to use punitive penalties for those who are not doing a good job but put positive incentives in place.

Mr. Rossotti is from the private sector who came and talked to the Senate Finance Committee, when we held his confirmation hearings, and told us all the wonderful things he was going to do to manage the agency. The law does

not give him the authority to do it, does not enable him to do the things he wants to do. We said, you can hire 25 more people. We gave him the authority to hire 25 more people, the only thing is they won't have any authority.

Those of us who have had the opportunity to serve our country in the Armed Services understands one of the first things we were taught is the difference between responsibility and authority; that I can delegate authority, but responsibility always stays with me. One of the worst situations you can have in life is to be given a lot of responsibility but no authority.

And that is what he has. He has the responsibility—everybody comes to him and complains when the agency isn't being run right—but he does not have the authority under the law to manage the agency, either with penalties or with affirmative incentives in place to reward people for doing a good job, to reward people for their high-performance in meeting the objectives and performance standards that he has set out in this law to present to the board and to present to the Congress.

Title II deals with electronic filing. I can see why some people who have been commenting on this bill, as if they have read it, ignore this particular section. It is kind of boring—electronic filing. Electronic filing does not sound like it is a very exciting piece of information.

I tell you, for the American people who pay for this agency, \$7.3 billion a year to run it, and for those who are filing tax returns out there, who spend \$200 billion a year to complete the forms, electronic filing is a big deal.

Why? It is a big deal, Mr. President, because we discovered—our restructuring commission that held 12 public hearings and thousands of meetings with employees and with former employees, as well as with all the people that help private-sector people, citizens to fill out their tax returns—we discovered that the error rate in the paper world is 25 percent and the error rate in electronic filing is less than 1 percent. And we change that in this law.

We still have a provision in there that requires under law that you have to actually put a signature document with your electronic filing, even though when we went down and visited the service centers and we talked to service center employees about this signature document—this piece of paper that has to still be filed, it is a requirement of the Department of Justice. The truth is, if you sign in black, the copiers are not so good anymore and it will not stand up in a court of law as to whether it is the real signature or a copy. So these stacks of papers they have down there are not worth anything. It is still required under law, but it is a nuisance to the taxpayer. Even with that paper having

to be filed, the error rate is less than 1 percent.

Mr. President, when it comes to doing any piece of work, whether it is preparing your own or trying to make the tax collection agency run efficiently, an error is money. It costs the taxpayers twice. It costs them first in an agency that is more inefficient than it ought to be, and it costs them a second time because it adds to the \$200 billion. Some fraction of that \$200 billion is there because it is inefficient, because it is difficult to get the information, because it takes longer than it otherwise would have.

For those who sort of are trying to, in their own minds, scratch their head and figure out what I am talking about—which is not altogether easy sometimes—most of us in our billfolds, our purses will have a thing called an ATM card, a little piece of plastic that the private sector has developed. They developed it to make it easier to make financial transactions, to do business with your bank or financial institution. Lord knows, it is a lot easier. It is lots more convenient. It enables you to do things that otherwise you would have to actually physically go in while the bank was opened to get done.

Well, you ask yourself, "How come the IRS has not done that?" The answer, Mr. President, again, is the law. There are insufficient incentives and there is no way to achieve consensus.

We started this thing in 1995, 2 years ago, when Senator SHELBY and I stood on the floor managing the Treasury-Postal bill. And we fought against the IRS because they had just been determined by the General Accounting Office to have wasted \$4 billion in purchasing computers.

We discovered in our restructuring commission these computers can't even talk to one another. You have a stove pipe organization, and one stove pipe doesn't talk to the other stove pipe, and it doesn't talk to the other stove pipe, and you can't get the information you need. It can take months and months and months to get information you need.

Mr. President, time for the American taxpayer is money. And they pay for it twice. So this section in here, electronic filing. Again, I understand why it has been ignored by people who write editorial pieces, because it is not very glamorous. It is not, you know, a very hot issue. It is not the sort of thing that sort of gets the blood boiling. But it is the sort of thing that will save taxpayers an awful lot of time and an awful lot of money.

Let me get to the third title. Those who say, "Well, how about all those concerns we hear in the Finance Committee that taxpayers were raising?" Title III deals with taxpayer protection and rights. I am willing to go further. Had this bill been brought to the floor a couple weeks ago, we could have, in

fact, strengthened the Taxpayer Advocate Office.

I am willing to make it more independent than it currently is even in this law, which gives the Taxpayer Advocate a lot more independence and a lot more power than they currently have. Hardly watered down, hardly insufficient, hardly minor if you are one of the taxpayers who get affected in here. We shift the burden of proof when you go to Tax Court—a big deal.

Today the presumption is that the taxpayer is guilty. If you get a notice, if you are one of the 135,000 people every single day who received, in addition to other sorts of things in the mail, a little thing that says "Internal Revenue Service," there isn't any feeling quite like that to wake you up in the morning. You get that little piece of notice in the mail and your hands shake. And you open it up, and it says, you owe \$100, you owe \$500, \$1,000, whatever the number is.

Under current law, the presumption is you are wrong; they are right. The burden is on you. You have to prove they are wrong, if you want to try to prove it. If you agree with them, fine, you send them a check. But if you say, "My gosh, I did this myself. I had an accountant help me. I had somebody else help me. I didn't make any mistake. I don't owe any additional money," welcome to the club. Now it is for you to prove that you are right, they are wrong.

We did not go as far as some would have liked to say, that you go immediately and shift the burden of proof so that the IRS has to prove you are wrong, because we felt that would punish and penalize the 83 out of 100 people who voluntarily comply who aren't receiving a notice; but we said, if you reach Tax Court, if you are unable to settle this thing and you reach Tax Court, it does shift now to the IRS. They have to prove that you are guilty, as is the case in every other court of law. This is not a minor change. Even though it was only several thousand people a year that end up in Tax Court, Mr. President, I will guarantee you, if you are one of those several thousand people, this is not a small change. This is a big change. And it will likely have a tremendous impact on your capacity to get a fair hearing before a U.S. Tax Court.

In subtitle B of title III there are a number of things dealing with what is called proceedings by taxpayers. It expands the authority to award costs and fees. We earlier had a discussion yesterday of this.

Today, you cannot get your attorney fees if you are found not to owe anything. Under this provision, the answer would be you would get attorney fees. You have the opportunity to be awarded up to \$100,000 of civil damages if the IRS can be demonstrated to be negligent. Today, if the IRS is negligent or

the IRS makes a mistake or the IRS is at fault, they don't have to worry about it. There is no penalty in place under the law to the IRS if they make a mistake.

Under this law there would be. It changes their attitude. It puts them in the frame of mind of saying, "My gosh, if I'm going to send a letter out to somebody and say they owe money, I better make sure they owe money, I better be reasonably certain I can make the case in Tax Court and better be reasonably certain, because if I'm demonstrated to be wrong, we could be out of some dough here. And if I'm negligent," which is very often the case, "if I'm negligent, we're going to have to pay a price for it."

We all understand that there needs to be some sort of negative sanction against behavior that could put people at risk. This law does that in a reasonable, responsible way, but certainly not in an insignificant way for those individuals out there—again, 135,000 every single working day—that are going to receive a notice of collection. This is not a small item for them.

There is a title in here called "Elimination of Interest Rates Differential on Overlapping Periods of Interest on Income Tax Overpayments and Underpayments." I will not go into this at length on the floor here this afternoon. Again this is not a small item. We have taxpayers out there saying, "My gosh, I don't understand it. You have given me a bill, I am in dispute, and I have to settle early because if I don't there is a possibility I could end up with a huge penalty." In no court of law do you have that. In no court of law do you have a situation where a citizen says, "I better make up my mind in a hurry here, otherwise I could end up with an enormous penalty. I could be penalized as a consequence of trying to make my case."

Other titles here are "Protections for Taxpayers Subject to Audit or Collection Activities," "Privilege of confidentiality extended to taxpayer's dealing with nonattorneys authorized to practice before Internal Revenue Service," "Expansion of authority to issue taxpayer assistance orders," "Limitation on financial status audit techniques," "Limitation authority to require production of computer source code," "Procedures relating to extensions of statutes of limitation by agreement," or "Offers-in-compromise," "Notice of deficiency to specify deadlines for filing Tax Court petition," "Refund or credit of overpayments before final determination," "Threat of audit prohibited to coerce Tip Reporting Alternative Commitment Agreements."

Mr. President, these are not small items. I would be surprised if there is a single Senate office that has not heard a taxpayer bring one, if not several, of these things to the attention of a Mem-

ber. These are not small. These are not insignificant. These are changes that could shift and cause taxpayers to say, "Finally, you are doing something that makes sense." The IRS cannot do it today. They are prohibited from doing these things. Again, we are a nation of laws, and once the laws are changed, the IRS will behave in the way the law directs.

There is a subtitle, "Disclosures to Taxpayers." What is the big deal? We had at least one witness before the Senate Finance Committee, a woman, who came and said she was surprised to discover that after her husband had divorced her and hit the road, she ended up being liable for his tax bill. We all heard it and said it was terrible, it shouldn't be the case. She was terrorized by the IRS. They put her and her new husband in jeopardy. She ended up getting divorced, Mr. President, over this because she was better off divorced. It is terrible. Change the law.

Well, bring the bill up and vote on it. You want to wait until next year? You want to put these people at risk? You don't want to solve a problem you know you can solve by changing the law? I don't understand it. I simply don't understand it. I don't understand what benefit is gained by delaying. We have a bill that we can bring up today—today. All it would take is the majority leader persuading the Republicans on that side. Every single Democrat is ready to bring it up. As I say once it is here for a vote, my guess is it is unanimous. Once people start looking at the details of the bill and see what is in this bill itself, I don't think they will object to this. I don't think they will come down here and say, gee, these are small, these are insignificant, these aren't anything that is going to have an impact on people.

Subtitle G is called "Low Income Taxpayer Clinics." I say there are people who are working, people in the work force, people out there trying to figure out how to read the Tax Code. There must be something out there available to them. The answer is there is not. We are not spending a lot of money, but we are saying keep the playing field level, give people the opportunity to get their questions answered in the same way you can get a question answered if your income is high enough that you can hire an accountant to get the job done for you.

Mr. President, these are not small items in this legislation.

The next title in this bill is "Congressional Accountability for the Internal Revenue Service." As I said earlier, as much praise as I got from the chairman after 3 days of hearings, we discovered for the first time in 21 years the subcommittee held a hearing. We had people criticize us. I guess every 21 years is too often. This is a requirement every 6 months for the Joint Tax Committee to meet and hold a hearing

with this new public board. Why? Not just for oversight, but so we can get consensus on what the strategic plan is going to be.

Every single private-sector person, every other government agency that talked to us about the technology investments, Mr. President—that is the key question. How do you make an investment in computers, and especially the software and operating system, for this 110,000-person agency that processes over 200 million returns a year? How do you do it when the processing occurs over a 150- or 180-day period? Every person that came to us said, unless you know where you are going, unless you have consensus on a strategic plan and understand the IRS currently has a board of directors that includes every single Member of Congress, 535 people on its board of directors—we heard witness after witness come to us and say the problem very often is not the IRS, but the Congress.

You have to give better oversight, more consistent oversight so they know what they are supposed to do. Congress is giving permission. We are not saying there will be a blank check. Congress still retains the authority to cut, to do whatever it wants, in response to things it sees the IRS doing or not doing. Congress still retains the authority to authorize and appropriate money. We have to have a mechanism to improve the oversight that Congress gives the IRS.

You say it is a small item. It is a big item. Mr. Rossotti will tell you it is a big item. There is one speed bump, and he is heading for Niagara Falls. When he will have 200 million returns filed, he hits one speed bump and he will come before six committees—three in the Senate and three in the House—to answer questions about what he did or didn't do and why he didn't solve the problems that he was supposed to solve.

Mr. President, this piece of legislation has many other things, and I will probably have an opportunity to talk further about this. Members need to understand what is in the bill. You have heard complaints and concerns coming from citizens at home. This piece of legislation will solve an awful lot of those concerns. You will go home and your taxpayers will say to you, "For gosh sakes, what did you gain by delay?" I stand here and predict the statements didn't go far enough. We need to do more. My guess is all we are doing by waiting another 150 or whatever the days are, and we will pass a piece of legislation roughly the same. This is a very strong piece of legislation.

I ask unanimous consent to have printed in the RECORD an IRS reform index that shows the cost of delay and shows the kind of support it has on the House side and the kind of support it has in the private sector.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

#### THE IRS REFORM INDEX

As of Sunday, November 9, number of consecutive days on which Senate Republican leadership has blocked Senator Bob Kerrey's attempt to bring up his IRS reform bill: 4.

Number of Senate Democrats who have urged Majority Leader Trent Lott to pass Kerrey bill before adjournment: 42.

Number of collection notices the IRS has mailed since Senate Republican leadership first blocked consideration of Kerrey bill: 396,000.

Number of taxpayers who have tried to call the IRS during that time: 825,000.

Number of collection notices that will be mailed before Senate returns January 26, the next date at which IRS reform could be considered if Republican leaders continue to block consideration of Kerrey bill: 9,504,000.

Number of taxpayer calls before Senate reconvenes: 19,800,000.

Number of those callers who, according to national averages, will be unable to get through: 9,702,000.

Number of those who do get through whose questions will be answered incorrectly: 807,840.

Vote by which House version of Kerrey bill passed: 426-4.

Percentage of House Republicans, including Newt Gingrich, Dick Armey and Bill Archer, supporting that bill: 100.

Amount Majority Leader Trent Lott called the "teeny" price of a phony "poll" Republicans propose to send out with all tax returns to assess taxpayer attitudes toward the same IRS they are objecting to reforming: \$30 million.

Number of Nebraskans whose entire annual income tax bills would be required to finance that "teeny" sum: 11,033.

Number of members of Congress who ought to know their constituents are fed up with the IRS without spending between \$30 and \$80 million on an unscientific survey: 535.

Mr. KERREY. I hope in the time remaining, all it will take is my friends on the Republican side simply not objecting to bringing this bill up, for us to act on it and get it to the President with his signature.

#### EXTENSION OF TIME FOR MORNING BUSINESS

Mr. ROTH. Mr. President, I ask unanimous consent that morning business be extended until 4 o'clock p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Oregon.

Mr. WYDEN. I ask unanimous consent to speak for up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WYDEN. Thank you, Mr. President.

#### FEDERAL MEDDLING IN OREGON

Mr. WYDEN. Mr. President, I rise today to take a few minutes to discuss Federal meddling in the internal affairs of my home State of Oregon.

As many of my colleagues know, the people of my State have been dis-

cussing at length the concept of assisted suicide. In fact, the people of Oregon have spoken twice on this issue. It is a very difficult issue, and after months of thoughtful debate and intense media scrutiny, the voters of my State have voted to allow physicians to assist their terminally ill patients in ending their lives.

Mr. President and colleagues, let me say that I have deep personal reservations about the concept of assisted suicide. I have voted twice as a private citizen against assisted suicide, and once on the floor of the U.S. Senate I voted against Federal funding of assisted suicide. But let me also say that the voters of my State in a recent ballot measure have voted no on the question of repealing the matter of assisted suicide they voted for earlier.

My question today is, what part of no does the Federal Government fail to understand? We saw just a few hours after the Oregon vote some of the most powerful Members of the U.S. Congress and the Clinton administration looking to overturn the popular will of the people of Oregon. Within hours of the Oregon vote, a letter emerged from the Drug Enforcement Administration to the Members of Congress who control the budget for the Drug Enforcement Administration. In effect, the Drug Enforcement Administration indicates they want to declare war on physicians in Oregon and those they serve by threatening to revoke the drug dispensing privileges of any physician who abides by the law that Oregon has now passed on two separate occasions. In effect, the Drug Enforcement Administration is interested in thwarting the will of Oregonians.

Now, Mr. President and colleagues, let me repeat again, I have deep personal reservations about assisted suicide. Going back to my days with senior citizens as codirector of the Oregon Gray Panthers, I have been most interested in looking at medical advances in pain management and hospice care, and I don't think there has even been a beginning at those efforts, and certainly those are the first efforts that governmental bodies at every level ought to be trying to support.

But when the people have spoken, and in this case the people of my State have spoken twice, it is time for the Federal Government to back off. It is not as if this town doesn't have enough to do already on this floor. It is obvious that important legislation needs to be passed as it relates to a number of Federal agencies. Certainly, the Drug Enforcement Agency has important work to do. I don't see any evidence that they have stemmed the flow of cocaine and heroin and methamphetamine to our kids. It seems to me the Clinton administration and the Drug Enforcement Administration has plenty to do right now other than to meddle in the internal affairs of the State of Oregon.

Now, I have great respect for the Members of Congress who are interested in this issue. A number of them are personal friends and individuals with whom I have worked on a bipartisan basis on health care legislation such as the Food and Drug Administration and health care legislation to protect our youngsters. I have great respect for the Members of Congress, the leaders of the committees that have jurisdiction over the budget for the Drug Enforcement Agency, and I respect them and have worked with them on many occasions.

However, I say to those Members of Congress and to the Clinton administration that it is an inappropriate exercise of our responsibilities to impose personal or religious views on the voters of Oregon. Those voters have spoken. My personal views notwithstanding, I want the Federal Government to get that fairly simple concept known as "No." The people of Oregon have spoken on this issue, and it seems to me if there were a constitutional question involved, perhaps you could understand why the Congress and the Clinton administration would be interested in this Oregon ballot initiative. But in fact, a Federal court has recently ruled against a constitutional challenge to Oregon's law, and the Supreme Court of the United States upheld that ruling.

Mr. President, the citizens of my home State have now made law with respect to what they consider to be compassionate care on the part of Oregon physicians. It was not a rush to judgment. There were two very extensive debates in my State, and I have already indicated that my view with respect to assisted suicide is that I still have deep reservations about the concept.

But the voters of my State have spoken. It would be wrong for those at the Federal level to meddle with that decision. It would be wrong to override the judgment of Oregon voters. And it is my view, Mr. President, that neither this Congress, nor the Clinton administration, nor the DEA, should trample on the judgment of Oregon voters on an issue that the courts have already decided is a matter that should be decided in my home State of Oregon.

Mr. President, I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### REDUCING THE RISK OF UNAUTHORIZED OR ACCIDENTAL LAUNCH OF BALLISTIC MISSILES

Mr. DASCHLE. Mr. President, as hard as it is for me to believe, it was 8

years ago this month that the Berlin Wall came tumbling down. Who among us can forget the stirring pictures of that moment? The entire world watched as jubilant Germans, separated for 38 years by a man-made scar running the length of their country, breached this once impregnable barrier. In so doing, they not only united Germany, they brought together a continent.

The dismantlement of the wall dramatically symbolized to all that democracy had at last triumphed over totalitarianism. The fall of the wall set in motion a series of incredible events. In June 1991, Boris Yeltsin became the first democratically elected Russian President. Two months later Yeltsin disbanded the Communist Party. By the end of 1991, the Soviet Union itself ceased to exist. And the Warsaw Pact, the once fearsome military alliance established to counter and defeat NATO, was officially dissolved.

After five decades of tension, the loss of thousands of lives, and the expenditure of several trillion dollars, the cold war was over. However, as the euphoria of this historic occasion began to melt away, leaders in the United States, Europe, and Russia began to realize that the national security paradigms they had used for nearly half a century no longer applied. They would be required to think anew—a task that presented both challenges and opportunities.

President George Bush took the first steps toward aligning our national security posture with the emerging post-cold war realities in September 1991.

Acting on the advice of Gen. George Butler, the commander in chief of the U.S. Strategic Command, President Bush ordered the U.S. Air Force to stand-down the portion of our strategic bomber force it had kept ready to fly at a moment's notice for most of the cold war. Shortly thereafter, the nuclear weapons on-board these planes were removed and placed in storage. President Bush would also take off alert status those strategic missiles earmarked for elimination under the START I Treaty.

President Clinton has also contributed to solving our post-cold war security concerns. Under his leadership, the Senate ratified the START II Treaty, which limits the United States and Russia to no more than 3,500 strategic weapons. President Clinton completed negotiations on the Chemical Weapons Convention and secured the Senate's approval this past April. The CWC treaty would eliminate the scourge of chemical weapons from the face of the Earth. And finally, just 1 month ago, President Clinton submitted to the Senate the Comprehensive Test Ban Treaty. If enacted, this treaty would be a useful tool in our efforts to stem proliferation. I hope the Senate will be allowed to act on this treaty when we return.

While we have made some progress in realigning our national security policies to more fully reflect the realities of the post-cold war world, we still have much more to accomplish. Perhaps the most startling and dramatic indicator of how far we have to go is the fact that, as I stand here today—8 years after the fall of the Berlin Wall—the United States and Russia still possess roughly 14,000 strategic nuclear weapons and tens of thousands more tactical nuclear weapons. And even more alarming, both sides keep the vast majority of their strategic weapons on a high level of alert.

In a recent editorial, former Senator Sam Nunn and Dr. Bruce Blair assert that each nuclear superpower maintains roughly 3,000 strategic nuclear warheads ready to launch at a moment's notice. According to Nunn and Blair, while this practice may have been necessary during the cold war, "today [it] constitutes a dangerous anachronism."

Mr. President, I believe we can and must do much more to address the threat posed by nuclear weapons. On September 17, I sent a letter to the Congressional Budget Office asking them to assess the budgetary and security consequences of a series of measures designed to reduce the spread of nuclear weapons and the likelihood they would ever be used.

I expect to receive preliminary results from this inquiry by early next year. In addition, I conducted a meeting earlier this week to explore one particular means of reducing the risk of unauthorized or accidental use of nuclear weapons—removing from alert status some fraction of the strategic ballistic missile force.

As a result of this meeting and a series of discussions with Senator Nunn, Dr. Blair, and General Butler, I am convinced that it is time to seriously consider de-alerting at least a portion of our strategic ballistic missile. I say this for several reasons. First, the likelihood of a surprise, bolt-out-of-the-blue attack of our strategic nuclear forces is unimaginable if not impossible in today's world.

Keeping large numbers of weapons on high alert status fails to recognize this reality.

Second, concerns are growing about the reliability and condition of the Russian early warning and command and control systems. United States security depends on the Russians' ability to accurately assess the status of United States forces and to control their own forces. Public reports indicate their early warning sensors are aging and incomplete, their command and control system is deteriorating, and the morale of the personnel operating these systems is suffering as a result of the lack of pay and difficult working conditions.

It is in our interest to have Russian missiles taken off alert and Russian

leaders given more time to interpret and respond to events.

Third, de-alerting a portion of our strategic missile force now could strengthen the hand of those in the Russian Duma who support START II and other United States-Russian security measures. De-alerting some United States strategic missiles could send an important signal at a crucial stage in Russia's consideration of the START II Treaty. In addition, when President Bush took unilateral action to de-alert a portion of our strategic forces, President Gorbachev reciprocated by removing from alert a number of Russian land- and sea-based missiles.

Finally, de-alerting a portion of our strategic missile force would not sacrifice U.S. security. The United States has already indicated a willingness to reduce its total strategic force to as few as 2,000 weapons. Even if we were to de-alert the entire MX force, the United States would retain roughly 2,500 weapons on alert status, and several thousand more could be made ready to launch. Moreover, should circumstances warrant, the United States could reverse any de-alerting measures it may take.

Mr. President, despite the fact that the Soviet Union dissolved and the cold war ended, the risks posed by nuclear weapons persist and evolve.

I plan to do what I can to explore options for reducing these risks. I believe de-alerting a portion of our missile force merits further study in this regard. I look forward to working with my colleagues and the administration in the next session of Congress to fully explore this measure as well as any other that could lessen the dangers of nuclear weapons.

Mr. President, I yield the floor.

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

#### ORDER OF PROCEDURE

Mr. ROCKEFELLER. Mr. President, I thank the minority leader, and I thank the Presiding Officer.

Mr. President, I ask unanimous consent that I might be able to speak as if in morning business for up to 20 minutes, and I further ask unanimous consent that at the completion of my remarks Senator BOXER be recognized.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. ROCKEFELLER. I thank the Presiding Officer.

#### FAST-TRACK LEGISLATION

Mr. ROCKEFELLER. Mr. President, there has been a lot of debate on the floor over the last several days about fast-track authority, and a lot of it has run against my grain. I don't think it

has been at a very high level. What I would like to do is respond to a few of the main arguments that have been used against it that I have heard from some of my colleagues about both the nature of fast-track authority and the need for fast-track authority.

Before I begin I would like to say that West Virginia's economy depends and will continue to depend enormously on strong growth in its exports. So any vote which is taken which does not support the proposition of promoting exports from West Virginia is one that I would question. Indeed, the U.S. economy is moving very strongly forward. I don't believe myself that the growth will continue in West Virginia as strongly as it might have if fast track does not pass this Congress, if we do not give that authority to the President. West Virginia had \$1.3 billion in exports in 1996. That's about a 35-percent increase in exports since 1992. That is quite remarkable. West Virginia's specific exports to Japan, which is our second-largest export market, went up 128 percent in 3 years. Just think about that, Mr. President—a 128 percent in 3 years; increasing exports increases West Virginia—and that dramatic increase has been with just one country—Japan. And, in fact, that means West Virginia exports to Japan totaled about \$116 million in 1996, which is not a lot in some States, but it is a lot in West Virginia. U.S. exports increased by \$125 billion last year alone—a lot of this because of trade arrangements.

One thing is undeniably true—denying the President fast-track authority will not create a single new job in West Virginia. Nobody can make that argument with a straight face. It won't save a single job either to deny the President fast-track authority. It will only hamper our ability to sell goods to new markets, which is what this is about, and hurt the growth of a critical sector of our economy, and one that I have personally been working on very hard over the last 10 to 15 years.

I think most of the arguments about the revolutionary provisions of fast track are highly overstated, and highly dramatized. Fast-track authority isn't anything new. And, because it is a procedural mechanism, I don't think there is anything to be feared about it. I recognize that others don't think so. Some have good arguments. Most have rather poor arguments, I think. Fast track is a mechanism simply that helps the United States keep up with the changing world economy and deal with our trading partners in 21st century management.

So, let me take a moment to respond to a few of the persistent arguments which are used against fast track. These are just a few of them.

Is there sufficient congressional consultation accompanying fast-track authority? Very big contentious deal.

Right? We are ceding all of our authority to the President of the United States. We will no longer be a Senate. We will just be a tool of the Presidency.

That is ridiculous. Congressional consultation is required in order for the administration to have and to retain fast-track authority and it has been significantly strengthened, I would say powerfully strengthened, from what was required under the legislation granting the last fast-track authority in 1988. New requirements for the administration are imposed under this bill which the House, and some Democrats in particular, don't seem to have the guts to be able to vote for it. It has all been passed through the Senate Finance Committee in order to ensure the administration carefully coordinates and consults with Congress at every stage of the process. Listen to me on this.

The 1988 act required that the President provide written notice to the Finance Committee and the House Ways and Means Committee of bilateral trade agreements at least 60 days before providing notice to the Senate and the House of his intention to enter into an agreement—and, remember, this is the last fast-track authority—and to consult the Senate Finance Committee and the House Ways and Means Committee regarding the negotiations.

The bill that we passed out of the Senate Finance Committee and which the Senate has voted by a vote of 69 to 31 to take up, the President to provide written notice to the Congress as a whole of his intention to begin multilateral and bilateral negotiations at least 90 days in advance.

That notice, Mr. President, must specify the date the President intends to begin such negotiations, the specific objectives of the negotiations, and whether the President intends to negotiate a new agreement, or, on the other hand, to modify an old or existing agreement. Any failure of the President to provide notice can result in the introduction and consideration of a "procedural disapproval resolution" which would deny fast track for the trade agreement, if the resolution were approved.

This bill also requires the President to consult with the Finance Committee and the House Ways and Means Committee, and with other committees, before and after providing the notice of his intention to begin negotiations.

Already we are in advance of where we were in 1988.

The President must consult with all other committees that have any jurisdiction or participation in this matter that request consultations if a committee wants to be consulted. If it wants to be consulted, it can request consultation, and the President must consult with them in writing.

In addition, the Senate Finance Committee's fast-track bill requires the

President to consult with the private sector advisory committees established under the 1974 Trade Act, as the President deems it appropriate, before beginning negotiations. This consultation takes place before the trade negotiations have even begun.

Before the President is permitted to enter into a trade agreement, the President must consult with the Senate Finance Committee, the House Ways and Means Committee, as well as other committees of jurisdiction over legislation involving subjects that would be affected by the trade agreement, in addition to the consultation requirements of the 1988 act, which includes discussions about the nature of the agreement and a detailed assessment of how the agreement meets the objectives and purposes of the act.

Now the Senate Finance Committee bill requires the President to consult the Congress on all matters related to the implementation of the agreement.

Free trade agreement negotiations must include an overview of the macroeconomic environment of the countries with which the President intends to negotiate and a discussion of effects on exchange rates—on exchange rates. It is a good idea included in response to concerns raised by certain Members—and it is in the fast-track authority.

These consultations must be continuous as negotiations of the trade bill are continuous. What additional requirements for consultation do the opponents of this want? Another new consultation requirement was added in response to Senate Members' concerns about side agreements that were entered into during previous free trade agreements, like NAFTA and the United States-Canada Free Trade Agreement. The new requirement mandates the President consult with respect to any other agreement he has entered into, or intends to enter into with the countries party to the agreement.

This would include all kinds of agreements: Formal side agreements, exchange of letters, and any preagreed interpretations of the provisions of a trade agreement entered into in conjunction with a trade agreement.

Advisory committee reports are required.

What provision of the extensive consultation requirements am I on? No. 7, No. 8? I have no idea what number I am on of all these new provisions which give strength to the congressional role in forging trade agreements.

Advisory committee reports are required to be submitted not more than 30 days after the President notifies Congress of his intention to enter into a trade agreement.

I know going through this amount of detail sounds arcane. But I just want to in a sense ridicule the arguments that are being used that somehow we are ceding all power to the President. Is it

the U.S. Senate which is important in this, or is it jobs for workers in West Virginia and across the country which are important in this? What comes first here?

Further, the Senate Finance Committee fast-track bill requires the USTR to consult regularly, promptly, and closely with congressional advisors for trade policies and negotiations, and with the Senate Finance and House Ways and Means Committee whole membership, and to keep both the advisors and the committees fully informed every step of the way through the negotiations process.

Ambassador Barshefsky is over there doing negotiating, which is really done in secrecy—most of it.

No. 9. We have to be consulted on the progress of the negotiations of any trade agreement eligible for fast track so the Congress can evaluate the negotiations at each stage virtually at each hour.

I do not know what more Members might require in the form of consultation.

Because negotiations traditionally become most intense at the conclusion of the negotiation process, the Senate Finance Committee further expects that the USTR will enter into a formal agreement in the form of procedures similar to those agreed by the executive branch in 1975 that will ensure that congressional advice and committee advice will be able to be fully taken into account as in the past.

Again, this next provision must be the tenth or eleventh requirement for consultation—

As a condition of fast track authority, the U.S. Trade Representative will commit to a set of procedures that afford Members and cleared staff—not just Members but cleared staff—with necessary documents, classified, or unclassified. They will have access to things such as cables, statements of executive branch position, and formal submission from other countries. The USTR staff will work with the Senate Finance Committee to set up a system of briefings for Members during these negotiations, and appropriate staff to be included in the final rounds of the trade negotiation agreement.

And the President is required to notify Congress before initialing a trade agreement which might even be eligible for fast-track authority. He can't even put his initials on it before he consults with Congress. Once the agreement is initialed by the President, the President then has 60 days to provide the Congress with any and all changes required to U.S. law to implement the agreement.

Well, I have another two pages on that, all of them, Mr. President, simply showing that the Senate has adequate consultation—the question is how much negotiating room the President has with all these consultation requirements. No problem with the Senate.

Now, some people make this argument. Some argue fast-track authority is not needed to move trade agreements. It is absolutely true that there have been hundreds of trade-related agreements and declarations which the U.S. Trade Office has concluded during this administration. From January 1993 to just last month that has been the case.

But, let me give my colleagues some examples of these many trade deals that the opponents of this bill point to to suggest that trade agreements continue to be made and that fast-track authority is not really necessary; in other words, you don't have fast track authority to have trade agreements. Well, a lot of these agreements which have been agreed to and negotiated are very peripheral in nature. One, a bilateral investment treaty with Albania. Great. And then an agreement regarding processed chicken quotas with Canada. A memorandum of understanding on trade in bananas with Costa Rica. Wonderful. A trade and intellectual property rights agreement with Estonia. Historic. An agreement on a temporary waiver of Hungary's WTO export subsidy schedule. Wow. Harmonized chemical tariffs with Japan. All right, that's good. An agreement on trade in textiles and textile products with Lesotho. Wonderful. And it goes on and on and on.

I hope that my colleagues will agree that as important as having bilateral agreements with any given country may be—and some of the examples I listed have, in fact, real economic impact; they have real impact on important industries in my State and other States—not many of these agreements are major trade deals. That is my point. In fact, very few are major trade agreements in the sense they are not opening up new markets.

Here rests my argument. What we are talking about is opening up new markets. What the opponents are talking about is totally removed and off base.

I do not mean to say that negotiating with individual countries and establishing bilateral agreements isn't a very important part of improving the trade environment. These individual product or industry-specific agreements with different countries do help improve U.S. trade. I have no doubt about that at all. But they do not make significant expansions in our export markets that America and West Virginia need desperately in order to improve.

Ensuring that U.S. goods and services can be available on a level playing field to the 96 percent of consumers in this world who are not Americans happens to be very important. Trade agreements make sure that we have access to new markets under reasonable conditions. In our increasingly global world, that means we have to have

multilateral agreements like GATT and the Uruguay round, and free trade agreements with areas like Latin America and Asia are needed. Why? Because they are growing enormously, and their middle class is growing and their ability to purchase goods is growing.

An up-or-down vote on a multilateral trade agreement makes sense to me because it is how we expand our markets. As the U.S. Trade Representative, Charlene Barshefsky, told the Finance Committee, in the two fastest growing regions of the world, Latin America and Asia, governments are seeking preferential trade agreements. "They are forming relationships around us, rather than with us, and they are creating new exclusive trade alliances to the detriment of U.S. interests."

Then Ambassador Barshefsky goes on to say, "In Latin America and Asia alone over 20 such agreements have been negotiated since 1992, all of them without us."

Well, I can't imagine that doesn't bother the opponents of fast track. I care about the effect of trade on jobs in my State. And there is plenty of protection for the Senate and the Congress in this fast-track authority. You cannot negotiate a trade deal with 100 Members of the Senate and a foreign country or set of countries. It cannot be done. Fast track makes sense.

Can you imagine people coming in and saying, well, we have to.

What are other countries doing on trade agreements while the U.S. debates fast track? Where is the United States at a disadvantage if we don't pass fast track, as they may not in the House? Again, primarily due mostly to my own party.

I have talked about the fact that major markets are negotiating trade agreements and the United States is not in the picture. Let's just look at the major world markets:

No. 1, Uruguay, Brazil, Argentina, and Paraguay have formed a common market called MERCOSUR. MERCOSUR has a GDP of about a \$1 trillion and includes a population of 200 million people. It wants to expand its market to the rest of South America. The sheer numbers of people and dollars in this market makes it the largest economy in Latin America. MERCOSUR has agreements with Chile and Bolivia, and is talking with Colombia and Venezuela, in addition to Caribbean nations. The EU and MERCOSUR plan to complete a reciprocal agreement by 1999. We are on the outside of all that.

No. 2, Latin American nations are meeting with members of the Central American Common Market [CARICOM] to discuss free trade negotiations.

No. 3, Chile, with one of South America's leading economies has already signed agreements with Bolivia, Colombia, Ecuador, Mexico, Granada,

Venezuela, and MERCOSUR countries. That means Chile has a preferential trading relationship with every major trading country in our hemisphere except the United States. How do the opponents of fast track feel about that?

There are seven members of the South Asian Association for Regional Cooperation [SARC]—Bangladesh, Nepal, Sri Lanka, India, Pakistan, and Maldives—they have set 2001 as the date they would like to create a free-trade area. Right now, SARC is only 1 percent of world trade, but it has 20 percent of the world's population which means this is another important market to the United States in the future.

I talked about Latin America earlier and want to underscore why that market is so important to our trading future. Projections are that Latin America will exceed Western Europe and Japan combined as an export market for the United States in the next decade—and that's under current conditions where tariff barriers average three to four times the average United States tariff. Put simply, Latin America is one of the largest emerging markets, of the 30 million people who join the middle class annually, three-fourths of those 309 million people are currently in emerging markets and low- and middle-income markets.

I am almost at an end. The Asian Pacific Rim is our second fastest growing export market. Meanwhile, our industrial competitors continue to make agreements that put U.S. goods at a disadvantage. Canada has a new trade agreement with Chile. The EU is in a position to take better advantage of the transition economies of Central and Eastern Europe. The EU is also working on getting a free-trade agreement with MERCOSUR.

China is zeroing in on Latin America and Japan is working on its ties to Asia and Latin America through closer commercial ties and a greater commercial presence.

Mr. President, I simply make these remarks because I think it will be such high and deep folly if the House declines to vote on—or if voting, votes down—fast-track authority. I think some of the arguments made in this body have made it easier for Members of the House to say, "Look what so-and-so said in the U.S. Senate."

It is a question: Do we want to expand trade? Or do we want to just keep all inside of ourselves? This has been an age-old problem with the United States. We cycle back and forth from one view to another. This is the time to cycle for an expansionist trade point of view.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mrs. BOXER. Mr. President, I had the floor, as I understand it, following the conclusion of Senator ROCKEFELLER's remarks?

The PRESIDING OFFICER. The Senator from California is correct. Under

the previous order, the Senator from California is to be recognized.

The Senator from California.

Mr. SPECTER. Mr. President, might I ask unanimous consent—I have been waiting here for some time to speak for up to 5 minutes.

Mrs. BOXER. Following my remarks?

Mr. SPECTER. No, at the present time. I have been here on the floor.

Mrs. BOXER. I have been waiting for at least 2 hours, on and off.

The PRESIDING OFFICER. Objection is heard. The Senator from California.

Mr. SPECTER. May I inquire of the Senator from California how long she will be speaking?

Mrs. BOXER. I would say about 15 minutes, I say to my friend.

Mr. SPECTER. Then I ask unanimous consent that I might be recognized to speak up to 5 minutes at the conclusion of her remarks.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mrs. BOXER. I say to my friend from Pennsylvania, I may finish sooner than that, and I will endeavor to do so.

#### LOOKING AHEAD

Mrs. BOXER. Mr. President, I think the Senator from West Virginia, Senator ROCKEFELLER, made a very strong plea for giving the President fast track. I find it interesting that those who support fast track say those who do not, in this case, oppose trade. I think the truth is there are those who support fast track on any given occasion, and there are some who oppose it on every given occasion. I find myself in the middle of the road here, where I have given fast-track authority to Presidents when I felt it was in the best interests of our country, of our working people, and of our environment. That is usually when trade is being negotiated with countries that have decent labor standards, decent prevailing wages, and decent environmental standards.

So on that topic, I think it is simplistic to say that either you are for trade or against it. I think we are all for trade. I think the question is, is it fair to America? Will it result in good-paying jobs or will it put the squeeze on jobs? And should we give up our authority here in the Senate and the House, should we give that up regardless of whether it is a President of my own party or another party? Or should we hold on to that authority so we can, in fact, stand up for American values and American workers and American interests?

As we reach the end of this session of Congress, I would like to comment on a couple of the issues that we have taken up in the Senate and look ahead for some issues I hope we will take up when we return. As one of the two Sen-

ators from the largest State in the Union, every single thing that we do here and every single thing we fail to do here has a major impact on my State. It has 33 million people, more seniors than any other State, more young people than any other State, more workers than any other State, more women than any other State, more infants than any other State. So whatever issue we turn to here impacts my people enormously.

I share pride in knowing that I was able to work with a majority of my colleagues to bring a balanced budget, but one with a heart, to the U.S. Senate and to the President's desk for signature. The march toward fiscal responsibility in this country was actually started when President Clinton took the oath of office. I remember that day because we were filled with promise and hope that we could finally tackle some of our problems. And we did.

I might say it was a tough year for Democrats, because we didn't get any bipartisan help in that budget. But that budget in 1993 was the budget that led us to fiscal responsibility. It took us down that fiscally responsible track. I remember, because I am on the Budget Committee, hearing the comments of my Republican friends at that time that this budget was a disaster, that President Clinton's policy would lead to unemployment, recession, depression—everything bad that you could think of. We persevered and we believed in what we were doing, and I am happy to say that this year we finished the job with our Republican friends. Gone are the days of Government shutdowns, because the American people spoke out in that last shutdown and said: You were sent here to do your job. We want fiscal responsibility but we are not going to have our budget balance on the backs of our grandmothers and grandfathers, our children, the most vulnerable people. We are not going to balance the budget while hurting education and the environment. So the budget agreement took all that into consideration. I think we all have a lot to be proud of.

As we moved forward on the fiscal responsibility front, unfortunately I saw us move backward in a number of areas. I want to touch on those.

In 1973, Roe versus Wade was decided. It is the law of the land. Yet this Congress is constantly trying to roll the clock back to the days when women were in deep trouble in this country because abortion was illegal. We know that there is not the will to have a vote to outlaw abortion because the votes are not there, and the American people would be stunned if a woman's right to choose was completely denied. So what the opponents of a woman's right to choose have done is to chip away at that right. And there are many women in this Nation who have their choice imperiled. Who are these women?

Women in the military, women in the Federal work force, poor women in America—all women in America, because fewer and fewer hospitals are teaching doctors how to perform safe, legal abortion.

I don't know why we have to keep turning back the clock to the days when women were in trouble in this country. Why don't we move on? I have a bill that would codify Roe versus Wade. I am looking forward to talking more about that next year. It seems like there is a group that wants to reopen that battle all the time. They want to reopen the battle over Medicare. They want to fight us on issues that already were fought in the 1950's. That's when Dwight David Eisenhower said the National Government ought to have a role in education. In the 1960's, that's when President Johnson said Medicare is important. In the 1970's, that's when President Nixon said we need an Environmental Protection Agency.

I think America does better when we move forward. So I am hoping when we get back here we will complete some unfinished business. First of all, we should fill up all the judgeships that are languishing. Justice delayed is justice denied. We have very fine people waiting to be confirmed by this U.S. Senate. I am very pleased that we did pass a number through, but there are a number left to go. I am very pleased Senator LOTT has worked with Senator DASCHLE and we will have a vote on Margaret Morrow. But we need to do it. We must also confirm the nomination of Bill Lann Lee to be Assistant Attorney General for Civil Rights. We cannot allow this important position to remain unfilled while such a superb nominee is ready, willing, and able to assume the job.

We also need the IRS reform that Senator BOB KERREY spoke about so eloquently. And we need passage of campaign finance reform, the McCain-Feingold bill.

Let's place some national standards on our HMO's and ensure that all Americans enrolled in managed care plans receive quality treatment and are always treated fairly by insurance companies.

We need to pass the transportation bill, not just for 6 months, but for 6 years. Our people need highways built. They need transportation systems that work. We owe it to them.

We must make stopping gun violence a national priority. Junk guns have no place on our streets. And we must ensure that all handguns in America are sold with a safety lock. Taking this step would save hundreds of lives every year.

Let's make a national priority of health research. That is what the people want. They want a cure for Alzheimer's, AIDS, breast cancer, prostate cancer, scleroderma, ovarian cancer—

these are the things they so worry about with their families today. Let's make a priority of health research.

He is our leader on doubling the National Institutes of Health. He has teamed up with Senator CONNIE MACK on this. It is time that we do this. The American people need it.

We need some minimum standards for day care. Senator DURBIN was on the floor today eloquently speaking about the needs of those infants and those toddlers and how the brain develops. By age 3, 90 percent of the brain is developed. Yet, we have no national standards for child care in this Nation.

So I think it is time that we looked at certain issues. We say children are our priority. Let's pass the Children's Environmental Protection Act and protect them from pollution. We have seen a 30-percent increase in brain tumors among our young children in the last 10 years.

We need national standards for education. We had a good compromise in the U.S. Senate, and the House would not accept it. What are we afraid of? Why wouldn't we want our parents to have a chance to see whether their children are reading at the proper level, doing math at the proper level? If we really care about our children, let's put some responsibility on the teachers, and this is one way I think we ought to do it.

Superfund reform. We have toxic waste dumps all over this country. We need to clean them up. The law needs to be refined. Too much money goes to attorneys and not enough to clean up the mess. The polluter has to pay. We can't allow the taxpayers to pick up the tab. We need to move forward.

In closing, I want to say this. We are going to be celebrating Veterans Day on November 11. It is a special, special day. It also happens to be my birthday, and I am very proud to share it with the veterans.

Year in and year out, we hear about how many of the homeless in our streets are veterans. Mr. President, how can we, as the United States of America, celebrate Veterans Day knowing that so many of our vets have been turned aside?

I hope we will move on that and on the gulf war syndrome. We cannot turn our back on veterans who served our Nation in wartime and came back sick.

We did it in Vietnam when our veterans were exposed to agent orange. We did it again with gulf war syndrome. We ought to hold our heads up as a nation this Veterans Day.

I really look forward to coming back here and righting some of these wrongs. Senator ROCKEFELLER has a great bill. It says if you are a gulf war veteran and suffer from a disease, you don't have to prove anything except you were in that war theater and you are now disabled in order to qualify for disability benefits. It seems to me if we

stand for anything around here, it ought to be standing by our veterans when they are sick and when they are homeless.

So I leave here with a good feeling about a lot of what we did and a little bit of regret about some other things I didn't agree with. But I am excited as I think about coming back here, because I think you heard me describe that there are a number of issues we ought to address that will make life better for all of our people in the context of a balanced budget that has a heart.

Thank you very much, Mr. President. I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Pennsylvania is recognized.

Mr. SPECTER. I thank the Chair. I have sought recognition to discuss briefly two matters: First, the pending fast-track issue and, second, the pendency of our judicial confirmations.

#### FAST TRACK

Mr. SPECTER. Mr. President, I will begin on the question of fast track with a statement made by the distinguished Senator from West Virginia saying that it would be disingenuous to believe that trade agreements would not be rewritten in the U.S. Senate. I say to my colleagues that I consider it unlikely that trade agreements would be rewritten in this body, considering how hard it is to get 51 votes against a committee report or against an administration position or that we might have the structure on amendments made so that it would require passage of a bill then subject to veto by the President and then subject to a two-thirds override. But if, in fact, trade agreements would be rewritten on the floor of the U.S. Senate or on the floor of the House of Representatives, then it might be something which is desirable.

I oppose fast track, although I am not opposed to free-trade agreements, because I do favor such agreements and supported NAFTA, the North American Free-Trade Agreement, and GATT, notwithstanding very considerable constituent opposition in my own State. Being elected in Pennsylvania, with 12 million constituents, it is my view that I ought to have standing as a Senator to offer amendments, and because we have had a certain amount of wisdom coming from Members of Congress on issues of trade, which are matters of very, very considerable importance.

I will analogize the activity of the Senate regarding trade agreements to what we do on treaties in general, where a two-thirds vote is required. If amendments could be offered to trade agreements, it could be of some substantial value to the President, and the executive branch in negotiating agreements with foreign powers saying,

"Well, we understand your position, but you have to understand ours, and there are certain political realities in the U.S. Congress."

We have a variety of protocols where you have executive agreements which look very much like treaties which are not subject to ratification by the Senate. A very complicated agreement was entered into with North Korea which involved very substantial issues on nuclear power. That was the subject of a letter from the chairman of the Foreign Relations Committee, the chairman of the Interior Committee and myself, in my capacity last year as chairman of the Intelligence Committee, asking for Senate action. So there are precedents for having the Senate exercise its judgment and I think we have some substantial judgment in the field.

I recall very well in 1984, when the International Trade Commission came down with a decision which was in favor of the American steel industry. At that time the issue arose as to whether President Reagan would overrule the decision of the International Trade Commission. Senator Heinz, my late departed colleague, a great Senator, and I went to talk to then Secretary of Commerce Mack Baldrige who thought that we were right, the American steel industry ought to have that favorable decision from the International Trade Commission. Bill Brock, the trade representative, agreed. We then talked to Secretary of State George Shultz and Secretary of Defense Caspar Weinberger who disagreed.

The President overruled the International Trade Commission and made the decision which was based really on foreign policy and defense policy. The American steel industry paid a very high price which should have been paid out of the general revenues. Western Pennsylvania especially, but eastern Pennsylvania, too, with Bethlehem Steel, suffered very substantially.

Right now, my distinguished colleague, Senator SANTORUM, and I are working very hard on trying to get Cigna fair access to the Japanese markets. Notwithstanding certain commitments by the executive branch and the trade representatives, we have not been able to accomplish that.

So it seems to me that there is a very good reason on principle why matters which come to the Congress on trade issues ought to be subject to amendment. We have some understanding of the trade issues, and we have some understanding of our States' stakes. I think it would be entirely appropriate for us to be able to offer those amendments and not to have to simply vote yes or no, take it all or leave it.

The PRESIDING OFFICER. The time of the Senator from Pennsylvania has expired.

Mr. SPECTER. I ask unanimous consent for 2 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### MY GRANDDAUGHTER SILVI

Mr. SPECTER. Before commenting briefly on judges, I have a very brief personal note. Yesterday, I spoke about the appropriations bill on Labor, Health and Human Services. My 3-year-old granddaughter, Silvi, was watching the screen on C-SPAN 2, perhaps one of the few watching. She said to her father, my son, Shanin, "Why doesn't he say hi?"

I told her I might speak this afternoon and alerted her, although the time is somewhat delayed. I do not think it is somewhat inappropriate to say hi to my granddaughter, Silvi. I know in the old days, they said you couldn't do that. But without objection, I say hi to her.

#### JUDGES

Mr. SPECTER. Mr. President, I want to say a word or two about judges.

It is a very difficult matter getting judges confirmed in the Senate. I congratulate my distinguished colleague, Bruce Kauffman, a former Supreme Court Justice in Pennsylvania, for his confirmation yesterday.

I understand the distinguished Pennsylvanian from Wilkes-Barre, A. Richard Caputo, Esquire, is subject to confirmation with no objection.

I urge my colleagues to support the confirmation of Judge Frederica Massiah-Jackson, for the eastern district of Pennsylvania, Federal court. Judge Massiah-Jackson has a very distinguished record on the State Court of Common Pleas in Philadelphia County. Although some questions have arisen, a couple of intemperate remarks, I think, do not disqualify her. If intemperate remarks were disqualifiers, there wouldn't be any Federal judges, there wouldn't be any Senators or anybody in any other positions. Questions have arisen about her sentencing. Out of 4,000 cases, 95 appeals were taken and reversals in only 14 cases. I urge my colleagues to support Judge Frederica Massiah-Jackson so we can fill a vacancy on the Federal court.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

#### UNANIMOUS-CONSENT AGREEMENT—CONFERENCE REPORT ACCOMPANYING S. 830

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Senate now turn to the conference report accompanying the FDA reform bill; that it be considered as having been read; that there be 30 minutes for debate equally divided between the chairman

and ranking minority member, with an additional 5 minutes for Senator REED of Rhode Island; and that following the conclusion or yielding back of time, the Senate proceed to vote on the adoption of the conference report, all without further action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. HARKIN. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. As I understand this, we now have an hour of debate?

Mr. JEFFORDS. Half hour; 30 minutes.

Mr. HARKIN. And then we will vote.

Mr. JEFFORDS. Right.

Mr. HARKIN. It will be a recorded vote.

Mr. JEFFORDS. No, it will not be. It depends on the body, but it is intended to be a voice vote.

Mr. HARKIN. Thirty minutes of debate, a voice vote and then there will be no pending business after that? What will the pending business be after that voice vote?

The PRESIDING OFFICER. The pending business is the fast-track bill. My understanding of the request of the Senator from Vermont was 30 minutes equally divided, plus an additional 5 minutes for the Senator from Rhode Island.

Mr. HARKIN. Mr. President, since everybody else seems to be getting in line, I wonder if I can amend that to ask unanimous consent that after the disposition of this bill, after the voice vote, which I understand is included in your disposition, after the disposition of this bill, that the Senator from Iowa be recognized.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. Mr. President, I was wondering if we could ask for 40 minutes. I have a couple of Senators on our side who would like time, who have been very active on this issue. Perhaps we could have a few more minutes so that we could accommodate their requests. Would that be agreeable?

Mr. JEFFORDS. Does that include the Senator from Iowa?

Mr. HARKIN. No.

Mr. KENNEDY. No.

Mr. JEFFORDS. Yes. I have an objection to the request from the Senator from Iowa.

Mr. KENNEDY. Mr. President, could we have 40 minutes then on the bill?

Mr. JEFFORDS. I have no objection to the Senator from Iowa being recognized as in morning business for a period of 10 minutes after the vote.

Mr. HARKIN. I understand that after the vote on this bill, the pending bill is the fast-track bill.

The PRESIDING OFFICER. The Senator is correct.

Mr. HARKIN. I ask unanimous consent that after disposition of this bill,

the Senator from Iowa be recognized to speak on the fast-track bill. That is all.

The PRESIDING OFFICER. Is there objection to the request?

Mr. JEFFORDS. It would have to be in morning business.

Mr. HARKIN. I don't understand why it has to be in morning business.

Mr. JEFFORDS. It is my understanding from the majority leader that the 10 minutes the Senator is requesting should occur as in morning business. That is all I can tell you.

Mr. KENNEDY. If the Senator would be recognized for 10 minutes—

Mr. JEFFORDS. I believe the Senator would be recognized for 10 minutes, but it would be in morning business.

Mr. HARKIN. I want to ask unanimous consent that the Senator from Iowa be recognized for up to 20 minutes after the disposition of this bill.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. JEFFORDS. Objection. I object.

Mr. HARKIN. Then I will object to that unanimous-consent request.

The PRESIDING OFFICER. Objection is heard.

Mr. JEFFORDS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Senate now turn to the conference report to accompany the FDA bill, and the conference report be considered as having been read, and that there be 40 minutes of debate equally divided, and that following the conclusion or yielding back of time, the Senate proceed to a vote for adoption of the conference report, all without further action or debate.

The PRESIDING OFFICER. Is there objection?

Several Senators addressed the Chair.

Mr. HARKIN. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Reserving the right to object, I don't know what I did, but a few minutes ago I had 5 minutes. There wasn't 5 minutes—

Mr. JEFFORDS. Then I will amend it to ask unanimous consent to add an additional 5 minutes for the Senator from Rhode Island, Senator REED.

Mr. REED. I thank the Senator.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. HARKIN. Reserving the right to object, I ask unanimous consent to

amend that unanimous consent so the Senator from Iowa would be allowed 20 minutes in morning business after the disposition of it.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request by the Senator from Iowa?

The PRESIDING OFFICER. Without objection, the entire unanimous-consent request is agreed to.

#### FOOD AND DRUG ADMINISTRATION MODERNIZATION ACT OF 1997— CONFERENCE REPORT

Mr. JEFFORDS. Mr. President, I submit a report of the committee of conference on the bill (S. 830) to amend the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act to improve the regulation of food, drugs, devices, and biological products, and for other purposes, and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 830), have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The Senate proceeded to consider the conference report.

(The conference report is printed in the House proceedings of the RECORD of November 9, 1997.)

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, before us is the conference report on S. 830, the Food and Drug Administration Modernization Act. This is really an excellent moment to bring this up and consider what has been accomplished.

This bill represents the first major reform of the Food and Drug Administration in some 30 years. For our committee, it is the second major reform that we have accomplished this session, the first one being special education, which was the first major reform for that program in some 20 years.

I am very pleased to be able to say to my colleagues that the FDA measure embodies the objectives we originally sought to accomplish.

This legislation achieves two important goals.

First, it helps the FDA to get medicine and medical devices to patients and doctors sooner and safer.

And, second, it will extend and improve the Prescription Drug User Fee Act, commonly known as PDUFA.

I am pleased to report that the conference report has the unanimous support of the conferees. It deserves the unanimous support of this body as well.

The conference report is the culmination of 3 years of hard work by dozens

of Senators. It offers the most substantial reform of the Food, Drug and Cosmetic Act in decades and will have a positive impact on the lives of millions of Americans for decades to come.

Think how the world of medicine has changed over the past two or three decades. The law that governs much of that world, and nearly \$1 of every \$3 spent by consumers, must change and adapt as well.

The measure makes scores of changes in the law that ensures the safety of the food we eat, of the drugs we use to fight disease, and the medical devices we use to improve the health of Americans. It will help patients gain access to new therapies sooner without weakening either safety requirements or the authority of the FDA. It gives the agency needed tools and resources to manage an increasing workload more efficiently. In addition, it contributes to our maintaining America's technological leadership in producing pharmaceuticals and medical devices.

Achieving these reforms is a win-win situation for consumers, for the FDA, and for manufacturers. It is a win for patients and consumers, who will gain access to previously unavailable information and obtain better therapy sooner. It is a win for the FDA, which will receive new, sorely needed resources and streamlining and modernization of bureaucratic processes that have not changed in decades. And it is a win for the manufacturers, who will have a certainty that the review and approval processes applied to their innovative products will be applied in a collaborative and consistent manner.

About 10 months ago, Mr. President, we embarked anew on an effort that some characterized as foolish—an effort to modernize the regulatory processes of the FDA. Many thought it could not be done. Some urged we merely extend PDUFA or we tackle only a few issues related to drug regulation and leave the comprehensive modernization to another day.

I am glad we did not choose either of these paths. Instead, we chose to forge a bill with broad, bipartisan support, one that took a broad view of the changes needed at the FDA.

In that regard, I particularly want to acknowledge the Democratic members of the Labor Committee, and especially Senators DODD, MIKULSKI, WELLSTONE, and MURRAY. They have made countless contributions to this legislation, large and small. Their tireless support has been critical in our success.

This measure is the result of the process to consult with individuals of all points of view and to benefit from the expertise needed to draft legislation on this complex issue. Patients, physicians, consumer groups, the FDA, and the manufacturers of medical devices and pharmaceuticals all contributed to this effort through their participation in hearings and in discussions with the staffs.

This effort was parallel to that of our colleagues in the House of Representatives, which, under the outstanding leadership of Chairman BLILEY, also produced a strong bipartisan bill with overwhelming support. The collaboration and consensus building has continued right up to the present, and the quality of this conference report we are considering today reflects that process.

Mr. President, we would not be here today if it were not for the effort of my predecessor as the chair of the Labor and Human Resources Committee, Senator Kassebaum. Her efforts to advance reform in the last Congress paved the way for our work here today. We owe her an enormous debt.

This year, there have been many Members in both Chambers who have contributed to this effort. Foremost among them has been Senator COATS. The list of provisions of this bill that bear his imprint is far too long to recite. But, as an example, the third-party review provision has been developed under his leadership, and he has played an important role in advancing FDA modernization throughout this process.

Senator GREGG is to be commended for his proposals to streamline the FDA process for consideration of health claims based on Federal research and his amendments to establish uniformity for the over-the-counter, OTC, drugs and cosmetics. Senator MCCONNELL also suggested improvements in the regulation of food.

I am especially grateful to Dr. FRIST. He and Senator MACK led the way to compromise on the issue of the dissemination of medical information to health professionals, an important advance forward.

Senator DEWINE, joined by Senator DODD, offered an important amendment to establish incentives for the conduct of research into pediatric uses for existing and new drugs, a needed change. The bill was improved by Senator HUTCHINSON's amendment to establish a rational framework for pharmacy compounding, which respects the State regulation of pharmacy while allowing an appropriate role for the FDA. And Senator HARKIN has made many contributions to this legislation.

Finally, the ranking minority member, Senator KENNEDY, has played an important role in bringing this conference report to the floor in a manner that draws support from all quarters.

In the House, Chairman BLILEY and Congressmen DINGELL, BURR, BURTON, GREENWOOD and WHITFIELD have contributed immense energy and leadership in reaching this agreement.

Mr. President, it has been a remarkable year, crowned by a remarkable, bipartisan achievement. And I thank my colleagues for their support.

Mr. President, I yield the floor and reserve my time.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, we have waited a very considerable time for this moment this afternoon in the U.S. Senate as well as action in the House of Representatives and, hopefully, the President's signature in the next few days on a matter of very significant importance to the issues of quality health for the American people.

It has been a very considerable process that we have followed over a number of years to get to this point.

I congratulate the chairman of our committee, Senator JEFFORDS, for his leadership all along this long and difficult passage, because I think without his perseverance, without his knowledge and awareness and his strong commitment on this issue, we would not have this important legislation available for the Senate and for the American people.

Mr. President, one could wonder why it has taken so much time. But we have a natural tension between bringing new innovation and creativity and breakthroughs in the areas of pharmaceutical drugs and medical devices to the market and, on the other hand, protecting the public by approving only safe and efficacious products. We have well-intentioned, brilliant medical researchers in our country who are absolutely convinced that their particular product can provide life-saving opportunities for our fellow citizens, members of our families, who are suffering extraordinary illness. And we have brilliant researchers at FDA that examine scientific information and clinical studies and believe that a very significant potential danger is out there for those who might use a particular pharmaceutical or medical device. Achieving a balance between these two concerns is a difficult task.

The one who has really balanced these conflicting views has been our chairman, Senator JEFFORDS, working diligently with other members of the committee, Democrats as well as Republicans, over a long period of time.

I am convinced that as a result of this legislation the health of the American people will be enhanced through faster availability to pharmaceutical drugs and medical devices while maintaining important protections for the American people. I join in supporting this landmark FDA conference report.

This is a very important piece of legislation. I think in many respects this will be one of the most important pieces of legislation of this year, and possibly of this Congress.

Mr. President, I want to commend Chairman BLILEY, JOHN DINGELL, as well as Chairman BILIRAKIS, SHERROD BROWN and other members of the House committee for their bipartisan work. We had a good conference where Members were knowledgeable and very committed in terms of finding common ground. I believe as a result of this conference we have an even stronger bill than was passed earlier.

In addition, I commend the Patients' Coalition and Public Citizen, who worked to assure that the needs of patients were fully and fairly considered in the legislation. I appreciate the assistance of the Massachusetts biotechnology and medical device industries, who provided me with valuable insight into these complex issues and their concerns.

I also commend Secretary Shalala, the dedicated men and women at the FDA, and the Clinton administration for their skillful and impressive role in developing so many aspects of these needed reforms.

The most important part of the bill is the extension of the Prescription Drug User Fee Act [PDUFA] which was originally enacted in 1992. PDUFA is one of the most important FDA reform measures ever enacted. It provides funds for FDA to hire hundreds of new reviewers who, in turn, are able to expedite the review and approval of pharmaceutical products. A critical element of PDUFA's success was the establishment of measurable performance targets, which was negotiated between the industry and the FDA.

Under the PDUFA provisions in this bill, in addition to moving products through the regulatory process more quickly, the FDA and industry will also establish a cooperative working relationship and shorten drug and device development times, which now represent the most significant delay in bringing new products to market.

In addition, the bill includes a number of other constructive provisions to enhance cooperation between industry and the FDA to improve regulatory procedures.

I am particularly gratified that the bill includes broader use of fast-track drug approval. The streamlined accessibility procedure now available primarily to cancer or AIDS will be available for drug treatments for patients with all life-threatening diseases.

The bill provides for expanded access to drugs still under investigation for patients who have no other alternatives. The compromise combines protections for patients with expanded access to new investigational therapies, without exposing patients to unreasonable risks.

The bill includes a new program to provide access for patients to information about clinical trials for serious or life-threatening diseases.

It provides incentives for research on pediatric applications of approved drugs and for development of new antibiotics to deal with emerging, drug-resistant strains of disease.

It requires companies to give patients advance notification of discontinuance of important products. And in that connection, I am disappointed that we were not able to address the issue of assuring that asthma patients and others will not be put at

risk by any abrupt discontinuance of inhalers containing CFCs. I have been informed by FDA that no notice of proposed rulemaking will be issued before this summer, which will give Congress plenty of time to return to this question, if necessary.

Mr. President, the current legislation is an improvement over the bill approved by the Labor Committee earlier this year—that bill included a number of provisions that as originally proposed could have jeopardized public health.

The original bill provided a pilot program for third-party review under which private third parties, certified by the Food and Drug Administration but selected and paid by the manufacturer, would have reviewed the safety and effectiveness of medical devices to determine whether or not they could be sold.

The original proposal would have included many of the most complex and risky devices, such as digital mammography machines, and a host of other devices to detect and treat cancer and other dread diseases.

Under the final bill, these devices may not be included in the pilot program.

The original bill required the Food and Drug Administration to approve devices for marketing even if the Food and Drug Administration knew defects in the manufacturing process would make the devices unsafe or ineffective. The final legislation eliminates this requirement.

The original bill would have prevented the Food and Drug Administration from looking behind the label proposed by a device manufacturer seeking approval of a product, even if the product was false or misleading. The final legislation assures that the Food and Drug Administration will be able to require full and complete information for physicians and consumers on any potential use of the device, not just the one claimed on the label submitted with the application for approval.

And the final legislation preserves the State authority to regulate cosmetics, an area of significant potential hazard to consumers.

The legislation includes an important compromise on information on off-label use of drugs. This compromise will allow companies to circulate reputable journal articles about off-label use of drugs but will ultimately enhance the public health and safety because the FDA will be given the opportunity to review, comment on, and approve articles which the companies will circulate. The compromise also requires companies to undertake studies on the safety of their drugs for the specific off-label use and submit applications to the FDA for approval of their drugs for these uses within 3 years. Currently, too many off-label uses of

drugs have never been reviewed for safety and effectiveness.

The bill assures the Food and Drug Administration will continue to conduct appropriate environmental impact statements, rather than be exempted from the standards that apply to every other governmental agency.

The compromise included in the bill assures the Nutrition Labeling Act is not undercut or weakened, and any health claims by food manufacturers have to be substantiated.

The legislation maintains existing standards for approval of supplemental use of drugs while streamlining the process by which they can be approved.

In summary, the current legislation is a vast improvement over the bill approved by our committee earlier this year. As a result of extensive discussion since then, including the 3 weeks of debate in the full Senate and our subsequent negotiations with the House, I believe every one of these problem issues has been resolved satisfactorily.

The bill we enact will get safe and effective products to market while assuring the Food and Drug Administration will have the tools it needs for public health. It is a landmark achievement. I urge all of my colleagues to support it.

Mr. JEFFORDS. Mr. President, I yield 4 minutes to the Senator from Tennessee.

Mr. KERRY. Mr. President, my understanding is when this business is completed that Senator HARKIN has unanimous consent for 20 minutes, and I ask unanimous consent, following Senator HARKIN, I be permitted to speak in morning business for 20 minutes.

The PRESIDING OFFICER (Mr. HAGEL). Without objection, it is so ordered.

Mr. COATS. Reserving the right to object, I don't intend to object, but I know there is an effort underway to try and bring the omnibus appropriations bill forward and I know a lot of Members are waiting around so they can take that vote. In fact, I was discussing that.

This isn't my call, but I ask the Senator if he could withhold until we can get some understanding of when that vote might be. It might be that it won't come before the Senator's 20 minutes, but if we add time here, 20 minutes there, and an additional 20 minutes, it could delay past the time when they now have commitments. I want to make sure we check that out.

Mr. KERRY. If I could allow my order to stand, I would be sensitive to the need for a vote, and if need be, I will respond.

Mr. COATS. I accept that, and withdraw my objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Tennessee is recognized.

Mr. FRIST. Mr. President, 3 years of hard work, which was begun by Senator Nancy Kassebaum, have resulted in the passage of the conference report to the Food and Drug Administration Modernization Act of 1997 in the Senate today. This legislation represents the first major, comprehensive reform effort since the initial amendments outlining regulation for drugs in 1962 and for medical devices in 1976. This major reform will help improve the FDA by strengthening its efficiency, accountability, and its ability to safeguard the public health.

There are several provisions contained in this bill that constitute significant reform and improvements to increase the efficiency of product review. For example, this legislation gives FDA authority to increase its access to scientific and technical expertise outside the Agency by allowing interagency collaboration with Federal agencies such as the NIH and CDC, and with the National Academy of Sciences. Also, the bill gives FDA the explicit authority to contract with outside reviewers and expand its current third party medical device review pilot program.

To help alleviate the confusion and frustration that many applicants feel when working with the FDA, the bill will require the FDA to codify evidence requirements for new drug and medical device application submissions and encourages improved communication between the agency and industry. And after 60 years, the FDA will be made more accountable by giving it a mission statement and requiring the FDA to develop a plan of action to meet its requirements under law. The bill will also reauthorize for 5 years the Prescription Drug User Fee Act, known as PDUFA, which has been tremendously successful in improving and speeding the review of much needed pharmaceutical products.

Most importantly, the bill Congress sends to the President will help patients. Individuals with a serious life-threatening disease or condition will have access to a new clinical trial database providing information on investigational therapies. Patients will benefit from the expansion of the fast-track drug approval process for new drugs intended for the treatment of serious or life-threatening conditions built on the existing program for AIDS and cancer drugs. And, patients that have no other alternative but to try an unapproved investigational product will have access to investigational therapies and medical devices.

The bill also includes a provision that will allow reprints of scientifically, peer-reviewed medical journal articles and medical textbooks about off-label uses of FDA-approved drugs and devices to be shared with physicians and other health care practitioners. This provision will help get

life-saving information to doctors, so they can be better informed when making decisions about how to treat their patients.

As a physician, I have used off-label uses to treat my patients in the past and understand its tremendous importance to the patient. Over 90 percent of treatments for cancer patients are off-label and the American Medical Association has estimated that between 40 percent and 60 percent of all prescriptions are for off-label uses of prescription drugs. I would like to acknowledge the tremendous work on this provision during the last few years by my friend, Senator CONNIE MACK and Mark Smith of his staff.

There are a number of people who worked hard to insure passage of this reform effort. I would like to thank Senator JEFFORDS, the chairman of the Labor and Human Resources Committee, for leading the bipartisan effort on FDA Reform in the Senate. I also acknowledge the leadership of Senator COATS, who has done significant work on provisions affecting medical devices in the bill. I also thank Senators GREGG, DEWINE, DODD, MILKULSKI, KENNEDY and HARKIN and their staffs for their hard work in conference. I would like to thank our House colleagues and their staffs who worked with us in conference and I especially recognize the able leadership of the chairman of the House Commerce Committee Representative TOM BLILEY and the ranking member JOHN DINGELL. I would also like to acknowledge and thank Secretary Donna Shalala and the FDA for working with us to help modernize and improve the FDA.

In particular, I would like to thank Jay Hawkins, Mark Powden, and Sean Donahue of Senator JEFFORDS' staff, Vince Ventimiglia of Senator COATS' staff, and Kimberly Spaulding of Senator GREGG's staff who were critical to the development of the bill. I thank them for their dedication and tireless effort on this important bill.

I especially want to thank the tireless work and outstanding leadership of Sue Ramthun, my staff director for health affairs, who has been so instrumental in passage of this bill.

I believe we have made a step in the right direction that will improve patient care and that this bill begins the debate on the long-term investment necessary to move the agency forward in areas such as regulatory research, professional development, and collaborative efforts between Government and academia, and I hope to continue working with my colleagues in a bipartisan manner to further improve the FDA in the following years.

Mr. KENNEDY. I yield 2 minutes to the Senator from Maryland.

Ms. MIKULSKI. Mr. President, I am so happy this day has finally come, in which the U.S. Senate, and I believe

the House, will pass a conference report to modernize the Food and Drug Administration and to bring it into a 21st century framework.

I want to thank Senator JEFFORDS for the patient leadership he has provided in moving this bill, and a special thanks for the collegiality of his staff in working with mine. I also would like to acknowledge the special role that Senator COATS has played. I have enjoyed working with him these last 3 years. We will miss him here as he undertakes next year a new life in encouraging faith-based community groups to become more involved. I think in this bipartisan collegial exchange we have come up with an outstanding bill that is going to save lives, save jobs in the United States of America, give us a product to export around the world that is translingual, transcultural, but certainly helps our people and at the same time puts patients first.

I want to particularly thank my own staff, Lynne Lawrence, for the active work she has done, and Roberta Haerberle and Kerry O'Toole in the excellent backup they have provided.

Why do I like this bill? First of all, we reauthorize the Prescription Drug User Fee Act. What this will mean is we will be able to have 600 reviewers who will be able to work at the Food and Drug Administration making sure that we cut the review time, streamline the process, be able to move drugs, biologics and devices for clinical practice in a more expedited fashion, and at the same time be able to protect safety and efficacy. We do protect safety and efficacy while we move along at a quicker step with more people.

A reauthorization of PDUFA gives us the right people and now we have the right legislative framework to do it. One of the important aspects of this legislation is the streamlining process, and yet at the same time maintaining safety and efficacy upon the approval process so more and more clinical things will be able to go into clinical practice.

I am delighted that this day has finally arrived. It is a great day for patients and physicians. They will get new medical products in a more timely and efficient manner. It is a great day for American business. They won't have to go through unnecessary regulatory hoops to get these new products on the market.

This legislation, carefully crafted between the House and Senate, represents a solid, bipartisan effort. We could not have reached this point without the incredible dedication and persistence of the chairman of the Labor Committee, Mr. JEFFORDS. I thank him for his heartfelt devotion to this bill, and for never giving up. I also thank his staff, Jay Hawkins, Sean Donahue, and Mark Powden for all their hard work.

Let me also acknowledge the tremendous contributions of our ranking member, Mr. KENNEDY. There is no doubt this is a better bill because of his efforts. I also want to acknowledge the hard work of our counterparts in the House, the chairman of the Commerce Committee, Mr. BLILEY and the ranking member, Mr. DINGELL. Many thanks also go to the fine staff of the Commerce Committee for their excellent work.

Mr. President, I have worked on FDA reform for a number of years. When I was a Member of the House of Representatives, we embarked, on a bipartisan basis, to ensure consumer protection and to prevent dumping drugs that did not meet our standards on Third World countries.

Coming to the Senate, I joined with my colleague from Massachusetts, Mr. KENNEDY, and the Senator from Utah, Mr. HATCH, in fashioning the Prescription Drug User Fee Act [PDUFA]. PDUFA has enabled FDA to hire more people to examine products that were being presented for evaluation and get them to patients more quickly.

The leadership of KENNEDY-HATCH on PDUFA has not only stood the test of time, it has shown that we can expedite the drug approval process while maintaining safety and efficacy. I am so pleased that this successful legislation will be reauthorized for 5 years.

But while PDUFA has made a huge difference, it became clear PDUFA was not enough. More staff operating in an outdated regulatory framework, without a clear legislative framework, was deficient.

That is when we began to consult with experts in public health, particularly those involved in drugs and biologics. While we were considering all this, the world of science was changing. We experienced a revolution in biology. We went from a smokestack economy to a cyberspace economy. We went from basic discoveries in science from the field of chemistry and physics to a whole new explosion in biology, in genetics and biologic materials.

It became clear we needed an FDA with a new legislative framework and a new culture. This is when we began to put together what we called the sensible center on FDA reform. We worked with Republicans and Democrats alike, because we certainly never want to play politics with the lives of the American people.

Senator Kassebaum chaired the committee during this initiative. We took important steps forward. I say to Senator JEFFORDS, you assumed that mantle, and you brought us to the point today where we will achieve final passage of FDA reform. I thank you for that.

What will this legislation do? Why is it so important? It streamlines and updates the regulatory process for new products. It reauthorizes the highly

successful Prescription Drug User Fee Act. And it creates an FDA that rewards significant science while protecting public health.

It will mean that new lifesaving drugs and devices will get into clinical practice more quickly. It will enable us to produce products that we can sell around the world, and through this, save lives and generate jobs.

FDA is known the world over as the gold standard for product approval. We want to maintain that high standard. At the same time, we want to make sure that FDA can enter the 21st century.

This legislation gets us there. It sets up a new legislative and regulatory framework that reflects the latest scientific advancements. The framework continues FDA's strong mission to protect public health and safety. At the same time, it sets a new goal for FDA, enhancing public health by not impeding innovation or product availability through unnecessary redtape that only delays approval.

There has been an urgency about reauthorizing PDUFA. Its authority expires at the end of September. PDUFA has enabled FDA to hire 600 new reviewers and cut review times from 29 to 17 months over the last 5 years. Acting now means that people who have been working on behalf of the American people can continue to do their jobs. We won't risk losing talented employees and slowing down the drug approval process.

Delay would have hurt dedicated employees, but more importantly, it would have hurt patients. Patients benefit most from this legislation. Safe and effective new medicines will be getting to patients quicker.

We're not only extending PDUFA; we're improving it. Currently, PDUFA only addresses the review phase of the approval process. Our legislation expands PDUFA to streamline the early drug development phase as well.

Instead of a carload of paper—stacks and stacks of material—being deposited at the FDA's front door, companies will be able to make electronic submissions. This not only reduces paperwork, but actually provides a more agile way for scientific reviewers to get through the data.

Updating the approval process for biotech is another critical component of this bill. Biotech is one of the fastest growing industries in our country. There are 143 biotech companies like that in my own State of Maryland. They are working on AIDS, Alzheimer's, breast and ovarian cancer, and other life-threatening infections such as whooping cough.

The job of FDA is to make sure that safe and effective products get to patients. Our job as Members of Congress is to fund scientific research and to provide FDA the regulatory and legislative frameworks to evaluate new

products and make them available to doctors and patients.

This is why I fought so hard for this. This is exactly why I fought for this. My dear father died of Alzheimer's, and it did not matter that I was a U.S. Senator. I watched my father die one brain cell at a time, and it did not matter what my job was.

My father was a modest man. He did not want a fancy tombstone or a lot of other things, but I vowed I would do all I can for research in this and to help other people along these lines.

Every one of us has faced some type of tragedy in our lives where we looked to the American medical and pharmaceutical, biological, and device community to help us.

When my mother had one of her last terrible heart attacks that was leading rapidly to a stroke—there was a new drug that is so sophisticated that it must be administered very quickly. You need informed consent because even though it is approved, it is so dramatic that it thins the blood almost to the hemophilia level. I gave that approval because my mother was not conscious enough to do it.

Guess what? That new drug approved by FDA, developed in San Francisco, got my mother through her medical crisis with the hands-on care of the Sisters of Mercy in Baltimore at Mercy Hospital. Mother did not have a stroke because we could avoid the clotting that would have precipitated it.

Thanks to the grace of God and the ingenuity of American medicine, we had my mother with us 100 more days in a way that she could function at home, have conversations with us and her grandchildren.

Do you think I am not for FDA? You think I am not for safety? You think I am not for efficacy? You bet I am. And this is what this is all about. It is not a battle of wills. It is not a battle over this line item or that line item. It is really a battle to make sure that the American people have from their physicians and clinical practitioners the best devices and products to be able to save lives. That's why I'm so pleased that we were able to achieve a bipartisan bill.

So, Mr. President, I thank you for the time. If I seem a little emotional about it, you bet I am. I love FDA. I am really proud they are in my State. I thank God for the ingenuity of the American medical community. And that is why I am so pleased we will be voting on the conference report today.

All of us are happy that this bill will finally pass.

Mr. JEFFORDS. Mr. President, I yield Senator COATS 4 minutes. He is a man whose tenaciousness and ability have made this a better bill.

The PRESIDING OFFICER. The Senator from Indiana is recognized for 4 minutes.

Mr. COATS. Mr. President, as the Senator from Vermont has said, this is

the first reform in 30 years at FDA. Obviously, a lot has changed in the industry. New drugs and new devices, new methods of bringing life-saving and health-improving benefits to the American people, and the people of the world. I think it is remarkable, particularly given the fact that it has been nearly 2½, 3 years now that we have been specifically working on this legislation in the committee, through a number of hearings, through a considerable, lengthy, and complex committee consideration, extensive floor debate. There were very difficult procedural hurdles to overcome and a difficult conference. We now arrive at this point with a bill that, very shortly, will be passed. This has only been done with a bipartisan effort.

I want to return the compliment to the Senator from Maryland. I thank her for that. I am not sure that everyone is going to miss me around this place, given my role in this bill, in trying to bring it forward. But I thank her for her kind words. Senators DODD, MIKULSKI, HARKIN, and WELLSTONE joined Republicans in the committee to produce a bipartisan piece of legislation, and they supported us on the floor. I thank Senator JEFFORDS and his leadership, and Senator GREGG, Senator FRIST, Senator DEWINE, and others on the Republican side, who contributed to the effort in moving the bill forward.

I would be remiss not to acknowledge the extraordinary work of so many staff people that helped to move this forward.

I thank my chief of staff, Sharon Soderstrom, and particularly Vince Ventimiglia, someone whose tireless efforts and thorough knowledge of the issues at hand, and at whose persistence we continued through all of the obstacles placed in the way of this legislation, and it was all accomplished in a manner of courtesy and respect, which is, unfortunately, all too rare around this place. He is an exceptional person. I don't believe we would be here without his efforts—even though he is not here right now; he is probably digging through the bill to make sure all the t's are crossed and the i's are dotted. He was exceptional in this whole effort.

This bill provides help to the Food and Drug Administration, who did not have the capacity nor, I believe, in the past, the managerial leadership that allowed FDA to keep pace with the marvelous breakthroughs we have had in the pharmaceutical and medical device area, which brings life-saving benefits and health-improving benefits to people. Six-hundred additional people, paid for by the industry in a tax against them to reauthorize PDUFA, will help speed up the drug approval process.

Now, for the first time, we give assistance to FDA on medical devices because we have a procedure where outside parties can, with FDA certification, approval and oversight, review medical device applications. This is going to provide for the medical device section what PDUFA provided for the drug section. This was a very critical part of the legislation, and I am pleased that it was retained in our efforts.

We are here and it is a victory for the American people. It took a lot of effort by a lot of people. It is a testament to the persistence of many, some of whom are speaking here on the floor today. I am proud to play a role in this effort because I believe we are addressing some fundamental concerns, going to the very health and safety and very lives of the American people and people throughout the world. Mr. President, it is with that, I yield whatever remaining time I have.

Mr. KENNEDY. Mr. President, I will yield 5 minutes to the Senator from Rhode Island, but first I yield myself 15 seconds.

I want to give the assurance to my friend and colleague from Indiana, as one that didn't always see eye to eye with the good Senator on some of these issues, I pay tribute to him for the strength of his commitment and the power of his logic and argument, and the passion which he has demonstrated out here.

I have enjoyed his friendship and have always valued the opportunity to exchange ideas with him.

Mr. COATS. I thank the Senator. We have had some interesting exchanges of ideas.

Mr. REED. Mr. President, I believe I have 5 minutes.

The PRESIDING OFFICER. The Senator is correct.

Mr. REED. Mr. President, I rise today in support of the conference report on S. 830, the Food and Drug Administration Modernization and Accountability Act of 1997. This is an important bill with serious implications for the protection of the health of the American people. Although I did not support this bill when it was first considered on the floor of the Senate, I am pleased that significant changes have been made and that this final version of the legislation is worthy of support.

This FDA reform bill is the result of ongoing negotiations both prior to and subsequent to the Labor Committee's markup of the bill. Through this process, a number of provisions that seriously threatened public health and safety were dropped or otherwise resolved. I am particularly pleased that improvements made include important protections to the third party review process. Significant changes and additions also include provisions regarding health claims for food products, health care economic claims, a notice of dis-

continuance when a sole manufacturer stops producing a drug, and a range of other items.

The original Senate-passed bill contained a provision regarding the FDA device approval process that posed a serious threat to public health. In effect, the Senate-passed bill would have limited the FDS's current authority to ask device manufacturers for safety data. It would have prohibited the FDA from considering how a new device could be used if the manufacturer has not included that use in the proposed labeling. As a general matter, the FDA does not consider uses that the manufacturer has not included in its proposed labeling. However, there are instances when the label does not tell the whole story. It is these instances—when the label is false or misleading—that my and Senator KENNEDY's amendment addressed.

I was not alone in my concern about this issue. Indeed, this provision was also identified as worthy of a veto threat by the administration. The Secretary of the Department of Health and Human Services said on numerous occasions that if this provision were not changed, that she and other top Presidential advisers would recommend that President Clinton veto this bill.

By accepting the House language on this device labeling issue, the conferees have struck a reasonable compromise that will give the FDA the authority it needs to ensure that medical devices are safe and effective. In this case, the legislative process has worked, and worked well. I commend the conference committee for the sensible compromise they reached on this important issue.

The FDA is responsible for assuring that the Nation's food supply is pure and healthy and to provide a guarantee that drugs and devices are safe and effective. The FDA has an immense impact on the lives of all Americans. Indeed, the FDA's mandate requires it to regulate over one-third of our Nation's products. Few Government agencies provide this kind of important protection for the American people. On a daily basis, the FDA faces the delicate balance between ensuring that patients have swift access to new drugs and devices while guaranteeing that those new products are safe and effective.

The bill we are considering today contains many positive elements. It reauthorizes the important Prescription Drug User Fee Act, one of the most effective regulatory reforms ever enacted. The legislation also includes a number of provisions that will improve and streamline the regulation of prescription drugs, biologic products, and medical devices. I believe that these important reforms to the operation of the Food and Drug Administration will increase its efficiency and speed the delivery of important new medical treatments to patients.

One of the most important elements of this legislation is the aforemen-

tioned reauthorization of the Prescription Drug User Fee Act, often referred to as PDUFA. PDUFA established an important partnership between the agency and the industry, and has successfully streamlined the drug approval process.

I am pleased that this bill will provide expedited access to investigational therapies. This provision builds on current FDA programs related to AIDS and cancer drugs. Another important element will allow the designation of some drugs as "fast-track" medications, thus facilitating development and expediting approval of new treatments of serious or life-threatening conditions. The bill will also require the Secretary of the Department of Health and Human Services to establish a data base on the status of clinical trials relating to the treatment, detection, and prevention of serious or life-threatening diseases and conditions. Patients have long needed access to such information, and I am pleased that this bill provides a mechanism to grant it.

I am also pleased that this bill contains my amendment requiring that within 18 months of the date of enactment, the FDA must issue regulations for sunburn prevention and treatment products. In August 1978, the FDA published an advance notice of proposed rulemaking to establish a monograph for over-the-counter sunscreen drug products. To date—almost 20 years later—while progress has been made, this rule has not been made final.

Sunburn prevention and treatment products can go far to help prevent sun exposure related to skin cancer. The facts on skin cancer are compelling: one person an hour dies of malignant melanoma; half of all new cancers are skin cancers; one million Americans will develop skin cancer this year, making it nearly as common as all other types of cancer combined.

The Food and Drug Administration has a key role in our response to this skin cancer epidemic through the regulation of safe and effective sunburn prevention products that are vital to avoiding skin damage from the sun's rays.

Mr. President, I am pleased that this compromise is a bill that I can support. I look forward to working with my colleagues to oversee the implementation of this important legislation and to ensure that its provisions streamline FDA processes while also protecting the public health of the American people.

I compliment Chairman JEFFORDS, Senator KENNEDY, and many other colleagues in both the Senate and the House of Representatives who have worked hard on this bill together to eliminate many other troublesome provisions in the bill as originally introduced.

Mr. President, again, I support the conference report on S. 830, the FDA

reform bill. The challenge throughout this process has been to balance a more efficient, streamlined, and productive FDA with their obligation to protect the public health. It has been a difficult task, but we made remarkable progress over the last several months. At the committee level, there was a serious discussion and debate. I could not support that version because at that time there were still outstanding issues which I thought could jeopardize the public health and safety.

When we reached the floor, there was another serious and productive debate about this legislation. Once again, I felt there were issues that had to be further addressed before I could support the measure. Today, happily, through the work of the conferees and colleagues on the floor today, we have reached a point where we have legislation that both provides for a streamlined, productive, and efficient FDA, and continues to give FDA the authority to protect the public health.

With specific regard to the debate on the floor, there was one major issue that I felt was very important, and that was to allow the FDA to have the authority to carefully review medical devices that may be used by the public. The legislation at that time circumscribed significantly the ability of the FDA to look beyond the label, look beyond the listed use by the manufacturer, to contemplate possible other uses that may take place when the product is in the stream of commerce. Fortunately, through the work of the conferees, this situation has been resolved.

Indeed, on the floor I offered an amendment with Senator KENNEDY. It did not pass, but I think that effort helped spur a concentrated effort during the conference to develop a legislative formula to give the FDA the power to regulate these devices appropriately.

We have many, many things to be thankful for in this bill. One issue I would like to address, also, which does not rise up, in some respects, to the major reforms, PDUFA or these issues, but it is critically important; that is, the issue of protecting the public with respect to sunscreen products and sunburn products. I am pleased to note that the FDA has been directed to promulgate regulations within 18 months with respect to these products which are sold to the public to protect them from the Sun. This might seem like an innocent product, but, in fact, we are seeing a remarkable growth in incidence of skin cancer throughout the United States. One person an hour dies of malignant melanoma, skin cancer. Half of all the new cancers developing are skin cancer. One million Americans will develop skin cancer this year alone. So we have to begin to focus our attention on those products which are advertised to protect the American public.

Once again, I think this is totally consistent with the role of the FDA. I am pleased that this provision has been included in the legislation.

Let me conclude by saying, again, I believe we have struck the vital balance between an efficient, productive FDA and their obligation, historically and statutorily, to protect the public health. We have done that through the work of Senators JEFFORDS, KENNEDY, and many others. I personally thank them and applaud them for their efforts today.

I would be remiss if I didn't also thank my staff member, Bonnie Hogue, for her help through this entire process. I yield the balance of my time.

Mr. JEFFORDS. Mr. President, I will now yield to the Senator from Utah, who has been a tremendous help over the years on FDA. In fact, I am going to give him all the rest of my time—all 3 minutes.

Mr. HATCH. Mr. President, I wanted to take this brief opportunity to commend Chairman JEFFORDS for a job well done—for producing a bill which will dramatically improve the way the Food and Drug Administration does business as we move into the 21st century.

That has been one of my top priorities during my service in the Senate. I am proud that we are having the opportunity today to vote on this historic legislation which will have so many benefits for my State of Utah.

Utah is the home to over 100 medical device manufacturers, and several pharmaceutical manufacturers as well. We also are the Nation's leading producer of dietary supplements.

The Utah Life Sciences Industries Association, the leading trade association for Utah device and drug manufacturers, has worked closely with the Congress in formulating this legislation, which will have many positive effects for Utah.

On behalf of our Utah drug and device manufacturers, let me thank you Chairman JEFFORDS, and our colleague in the House, Chairman TOM BLILEY, for producing a bill which has encouraged the FDA to work in a more collaborative manner and to get the job done, to get it done professionally and expeditiously, without all the bureaucratic hassles we have experienced in the past.

And on behalf of the dietary supplement manufacturers, and most importantly the 100 million or so consumers—most of whom seem to have called our offices in the last few weeks—let me thank you for making sure that the bill does not undo the Dietary Supplement Health and Education Act in any way and that dietary supplements will remain what they are, food products, not drugs.

Finally, I wish to thank all of the staff who worked literally through the night to make today's passage of the

conference report for S. 830 possible. You can be proud of your work.

RETIREMENT OF KATHLEEN "KAY" HOLCOMBE  
Mr. HATCH. Mr. President, I could not let this opportunity pass without recognizing the extraordinary contribution that Kay Holcombe has made during almost 25 years of Government service.

Kay, who currently serves as the top health staffer on my good friend Representative JOHN DINGELL's Commerce Committee staff, has worked in a variety of positions in Government, including 6 years on Capitol Hill. Unfortunately for us, she plans to retire at the end of this session—while a fantastic opportunity for her, a regrettable loss for the Congress and the Nation.

I grew to know and appreciate Kay in 1984, when I was chairman of the Labor Committee and Kay joined our staff as an American Political Science Association congressional fellow. What Kay brought to that job was considerable. She is bright, witty, an expert on any issue she studies, and, above all, a true professional who puts good policy above politics.

What I recall most vividly about Kay's period on the Labor Committee was her incredible ability to juggle lots of balls without dropping any of them. I could always count on her to get the job done, and, in fact, to do her job and the job of three others.

I believe that Kay stands out among Government employees for the common sense she brings to any position and for an ability to bring consensus to the most difficult of issues.

We are witnessing that ability today with passage of the conference report on the FDA reform bill, a bill which—quite simply—would not have been possible without Kay Holcombe.

Her work on the Dietary Supplement Health and Education Act also stands out in my mind, where Kay's knowledge and skills as a tactician helped us overcome many an impasse. And, I might add, she was, and I suspect is, the only staffer in the Capitol who understands many of the words we wrote into that act, the most memorable of which was "lyophilize".

Her background as a bench scientist at NIH, with subsequent experience in almost every one of the Public Health Service agencies, is a record of accomplishment and experience that cannot be matched on Capitol Hill.

I, for one, will miss Kay's expertise sorely. And while I am thrilled for her as she enters this challenging new period in her life, and I am saddened at our loss here in the Congress.

To Kay, her husband Frank, her daughter and son-in-law Anne and Tony, and her mother Ginny, I wish the best as the family enters a new period of life after Capitol Hill. I hope it will be happy indeed.

Mr. KENNEDY. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 8 minutes 33 seconds.

Mr. KENNEDY. I yield 4 minutes 33 seconds to the Senator from Connecticut.

Mr. DODD. Mr. President, I want to begin by thanking my colleagues who have spent innumerable hours creating a bill that will bring lifesaving drugs and medical devices to the American people more quickly and efficiently, without compromising safety or effectiveness.

First, Senator JEFFORDS is to be commended for his leadership. His staff, most notably Jay Hawkins and Sean Donahue, also deserve our appreciation for their hard work and dedication to seeing this legislation enacted.

Although the process was at times a difficult one, I'm pleased to say that a spirit of bipartisanship and compromise ultimately prevailed, as evidenced by the overwhelming Senate vote of 98 to 2 in September on this bill.

I'd also like to thank my fellow Senate conferees—Senators KENNEDY, COATS, HARKIN, GREGG, MIKULSKI, FRIST, and DEWINE for their successful efforts to negotiate a workable compromise with our colleagues in the House.

We should take pride in the legislation that has been created—the first substantial update of FDA's rules for regulating drugs and devices since the 1970's.

We should take pride in the fact that this bill will speed critical products to patients without compromising the high safety standards that Americans have come to rely on.

Mr. President, I'd like to speak for a moment about some of the positive reforms contained in this bill.

At the heart of the bill is the 5-year reauthorization of PDUFA, the Prescription Drug User Fee Act—a piece of legislation remarkable for the fact that there is unanimous agreement that it really works.

In the 5 years since this initiative was created, the fees collected under PDUFA have cut drug approval times in half. With its renewal as part of this bill, we can expect drug approval times to drop an additional 10 to 16 months.

In addition, by improving the certainty of product review process, this bill encourages U.S. companies to continue to develop and manufacture in the United States. This bill asks the FDA and industry to begin collaborating early in the approval process to prevent misunderstandings about agency expectations that ultimately could delay a needed product from reaching consumers.

This bill also establishes or expands upon several mechanisms to provide patients and other consumers with greater access to information and to lifesaving products.

For example, this bill will give individuals with lifethreatening illnesses

greater access to information about ongoing clinical trials of drugs—information that may offer the only hope for those patients who have not benefited from treatments already on the market.

Based on a bill originally championed by Senators SNOWE and FEINSTEIN, I offered an amendment in committee, which I was pleased to see adopted, to expand an existing AIDS database to include clinical trials for all serious or lifethreatening diseases.

Individuals struggling with chronic and debilitating diseases should not be burdened with the daunting task of searching, without assistance, to locate studies of promising treatments. This database will provide one-stop-shopping to help those patients quickly and easily access vital information.

Mr. President, I am particularly pleased that this bill incorporates the Better Pharmaceuticals for Children Act, legislation originally introduced by our former colleague from Kansas, Senator Kassebaum, and now cosponsored by myself and Senator DEWINE.

This provision addresses the problem of the lack of information about how drugs work on children, a problem that President Clinton recognized recently as a national crisis.

According to the American Academy of Pediatrics, only one-fifth of all drugs on the market have been tested for their safety and effectiveness in children. This legislation provides a fair and reasonable market incentive for drug companies to make the extra effort needed to test their products for use by children.

I was pleased to join Senator JEFFORDS as the first Democratic cosponsor of this bill. I would thank him again for the hard work and long hours that he and his staff have contributed.

I look forward to joining my colleagues in voting in favor of this legislation.

Let me join here, Mr. President, the chorus of praise for those who have been involved in putting this bill together. It has been a long journey and not always an easy one, but I think the final product is a good one. I commend the chairman of the committee, Senator JEFFORDS, and his staff, Jay Hawkins, Sean Donahue, Jeanne Ireland of my staff, for their hard work and dedication in seeing this process to its conclusion. We swept the Senate with an overwhelming vote of 98 to 2 on what I thought was a good bill. Our conferees worked very hard. I thank Senators KENNEDY, COATS, HARKIN, CRAIG, MIKULSKI, FRIST, and DEWINE for their successful efforts in this area as well.

This is a critically important piece of legislation that will expedite the process of getting needed medicines and devices to patients, without compromising safety or effectiveness. That was a desired goal of everybody here.

Let me, if I can, mention two or three provisions in the bill that I think

are worthy of special note. One, of course, is a 5-year reauthorization of PDUFA, which is very, very important. I think it demonstrates the success of the PDUFA and how well it worked over 5 years.

Secondly, I also would like to commend our colleagues for accepting the several mechanisms to provide patients and consumers with greater access to information and to life-saving products. For example, this bill gives individuals with life-threatening illnesses greater access to information about ongoing clinical trials and drugs that could be very, very important to them and their families. By the way, Senator SNOWE and Senator FEINSTEIN deserve particular credit. It was originally their idea that we incorporated in the bill, the Better Pharmaceuticals for Children Act. Former Senator Kassebaum of Kansas originally authored that idea, Mr. President. Senator DEWINE and I included it in this bill. I think it has been improved upon in the conference. It is a very important provision that could make a huge difference for young children and their families who want to have reliable products that will become available to them.

So, Mr. President, let me conclude by again thanking all those who have been involved in this process. Passing this legislation can truly be considered one of the very fine achievements of this first session of this Congress. I look forward to its effectiveness with the American consumer.

#### APPROPRIATIONS TRIGGER

Mr. BUMPERS. Mr. President, on September 23 of this year, my colleague, Senator COCHRAN, chairman of the Appropriations Subcommittee on Agriculture, Rural Development, and Related Agencies, rose on the floor of the Senate to express objection to a provision of the FDA reform bill that would direct the appropriations subcommittee to provide established levels for salaries and expenses of the Food and Drug Administration through fiscal year 2002. If the appropriations bills did not meet those levels, referred to as trigger, the FDA would not be able to collect or use receipts authorized by the Prescription Drug User Fee Act (PDUFA). The effect of the provision Senator COCHRAN found so troublesome would have been to place a budgetary gun to the head of the appropriations subcommittee under threat of PDUFA fees not being collected and the Nation's drug approval process placed at risk. As ranking member of the appropriations subcommittee, I shared Senator COCHRAN's concerns, but honestly hoped that the problem he highlighted would be corrected before we were faced with final passage of the conference report on FDA reform. While the conference report before us today does provide some relief in fiscal years 2001 and 2002 from the earlier

Senate language, I am still disappointed that more progress was not achieved to inject a greater dose of realism into the expectations of the FDA authorization committees of the House and Senate.

I do not mean to detract from the very important work of the FDA nor to minimize the need to push ahead aggressively with drug approvals. I equally appreciate the concerns of the prescription drug industry, which will be responsible for paying the PDUFA fees, that their considerable contributions will be used to supplement, not supplant, the drug approval process. However, an unfortunate charade has been employed to suggest the language now contained in FDA reform is going to protect, in fact guarantee, increases in the level of Federal funds appropriated for FDA drug approvals. I must point out to my colleagues that the language before us does nothing to assure that very goal and I feel compelled to highlight the provision's failing.

FDA reform would require the appropriations bills for fiscal years 1999 through 2002 to provide levels for the FDA salaries and expenses account at levels no lower than the fiscal year 1997 level adjusted by the lesser of inflation based on the consumer price index or changes in growth of national domestic discretionary spending. The FDA salaries and expenses account contains funding for all activities of FDA, including drug approvals, subject to an appropriation other than amounts for buildings and facilities. The FDA reform legislation contains no requirement that FDA allocate any portion of the salaries and expenses account for drug approvals. Therefore, while our appropriations subcommittee may comply with the full letter of FDA reform requirement, that act alone would provide no assurance to the drug industry that the FDA appropriation would be used as they expect. FDA certainly has other pressing budgetary demands such as the need to account for the rental space arrearage for which the General Services Administration is threatening action against FDA, and continued work on tobacco issues. FDA will also need increased attention in the area of food safety which continuing headlines, such as that appearing in the Washington Post this weekend about the more than 700 people made ill by contaminated food in southern Maryland, will no doubt place greater workload on the agency. An arbitrary appropriation trigger will produce no magic bullet aimed solely at the problem of drug approval backlogs.

Mr. President, I might have a little more understanding for the concerns of the drug industry if there was any merit to their claim that the appropriations subcommittee would not hold faith with their requests. Over the past 10 years, our subcommittee has in-

creased new budget authority for FDA salaries and expenses from \$456,004,000 to \$857,501,000. In fact, I would like the RECORD to reflect the amounts provided in that account on a year-to-year basis since fiscal year 1988 to the present, and I ask unanimous consent the year and amounts be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Fiscal year 1988—\$456,004,000.  
 Fiscal year 1989—\$487,344,000.  
 Fiscal year 1990—\$574,171,000.  
 Fiscal year 1991—\$656,519,000.  
 Fiscal year 1992—\$725,962,000.  
 Fiscal year 1993—\$746,035,000.  
 Fiscal year 1994—\$813,339,000.  
 Fiscal year 1995—\$819,971,000.  
 Fiscal year 1996—\$819,971,000.  
 Fiscal year 1997—\$819,971,000.  
 Fiscal year 1998—\$857,501,000.

Mr. BUMPERS. I have included this history of funding to show how the amount of appropriations for FDA salaries and expenses has increased every single year since fiscal year 1988 except for the period between fiscal year 1995 and fiscal year 1997 when the level was held at a freeze. I also want to note that the 3-year period connecting fiscal year 1995 and fiscal year 1997 was a period in which the 602(b) allocation to our subcommittee fell by 11 percent. I hope my colleagues see in this history a commitment by our subcommittee to recognize the importance of FDA's activities. Further, I hope my colleagues see that even during a time when nearly all other programs under our jurisdiction had to take significant reductions, FDA was held harmless. I believe this history reflects well on the commitment and good faith of our subcommittee.

An obvious result of the provision contained in FDA reform will be continuing further reductions in other programs under the jurisdiction of our subcommittee. Those programs will again have to suffer unless, in the unlikely event, we receive substantial increases in our future 602(b) allocations. There are many, many other programs for which our subcommittee is responsible that are important to people and communities all across the Nation. Our bill provides funding for all activities at the U.S. Department of Agriculture—except the Forest Service—and the Commodity Futures Trading Commission. At USDA alone, there are hundreds of programs essential to rural and urban America that will be harmed, again, if our subcommittee is expected to provide FDA, and FDA only, with inflation increases through fiscal year 2002. USDA programs have already been radically cut by our subcommittee over the past several years while, as noted above, FDA was provided substantial increases or, at least, held constant.

I understand a few other proposals were suggested, and rejected, during

consideration of the FDA reform legislation. One proposal was to hold FDA to a freeze, something which we have shown we have done historically. Another proposal would have specifically protected the FDA activities for drug approvals. That approach would have better addressed the concerns I outlined above. I understand this proposal to protect FDA drug approvals was rejected due to objections from nondrug related industries concerned that FDA resources might be transferred from their own specific priority areas to drug approvals. Ironically, that is the same concern I have heard from groups fearful about what the provision in FDA reform will do to USDA and CFTC programs.

Mr. President, at times I feel there is an outright assault on the appropriations process. Too many times in recent years we have seen requirements imposed on the Appropriations Committee by other legislative and procedural vehicles that continuously impairs our ability to respond to agency needs and responsibilities to our states and the American people. Based on administration projections, the trigger mechanism contained in FDA reform would force the appropriations subcommittee to increase the FDA salaries and expense account from the current \$857 to \$876 million in fiscal year 2002. According to the President's 1998 budget, the projected request for FDA salaries and expenses for fiscal year 2002 is only \$691 million. This is a difference of nearly \$200 million, an amount worthy of deliberate consideration by the appropriations subcommittee. Additionally, the FDA reform provision does not account for the possibility of a tobacco settlement that might replace current appropriations expenditures, consolidation of food safety functions in some agency other than FDA, or other potential changes that would affect, and possibly reduce, the budgetary requirements of FDA. Even though the provision does attach the trigger to the lesser of the consumer price index or changes in the growth of national domestic discretionary spending, there is no guarantee that any increase in overall domestic discretionary totals will be reflected in the 602(b) allocation for our subcommittee.

For the coming year, I can assure my colleagues that I will work with Senator COCHRAN and others to assess the requests of all agencies and departments that will come before our subcommittee. I strongly believe that we have been fair in our setting of priorities and that we will continue to consider the merits of all requests in order to balance the fiscal demands and resources in a manner consistent with our abilities, good judgment, and the recommendations of all Senators.

Ms. MOSELEY-BRAUN. Mr. President, I support S. 830, the conference

report for the Food and Drug Administration Modernization and Accountability Act of 1997, and commend the conferees for quickly reaching agreement on compromises that will ultimately improve the FDA and improve the public's access to cutting edge medical technology.

I am also pleased that we are going to pass this important legislation before adjourning for the year. The American people will be much better off as a result of our actions here today. S. 830 is a perfect example of Congress enacting public policy that Americans both want and need.

There is no disagreement as to the caliber of the Food and Drug Administration. FDA is one of the finest regulatory agencies in the Nation and the world. However, the length of time and amount of paperwork required for FDA approval of new products may still be excessive. For many companies, particularly small and startup businesses, the FDA application process is a formidable time consuming obstacle. These barriers exist despite the recent agency improvements to their review process. In some cases, the length and complexity of the process can force companies to launch their products abroad rather than here in America. This is a troubling prospect, particularly given the increasingly competitiveness of global markets.

The FDA, like all other entities, must evolve and adapt to the changing global landscape. Traditional methods of product review are no longer efficient. Industrialized and emerging nations now participate in multilateral trade agreements aimed to reduce trade barriers. While the U.S. continues as the world's premiere economy, our market dominance is dwindling. A recent Washington Post article indicated that our Nation was far more dominant economically following World War II, when the U.S. economy accounted for more than 25 percent of the world's output, than it is today. Evolving global markets hold untapped potential for product manufacturers. The ability to lucratively launch products abroad will bring pressure on the FDA to harmonize its regulatory policies with other international safety and performance standards. The traditional policies that have made the U.S. the "gold standard" in public health protection threaten to undermine our competitiveness. In order to maintain its status as the gold standard, the FDA must implement policies that encourage the launching of new products in this country, as opposed to Europe, and ensures that the United States maintains its technical and scientific leadership in health disciplines.

Mr. President, S. 830 strikes a delicate balance between protecting the public health, fostering global trade under multilateral agreements, ensuring swift access to new health tech-

nology for Americans, and strengthening the U.S. technical and scientific leadership.

The conference agreement reauthorizes the Prescription Drug User Fee Act (PDUFA) for an additional 5 years. PDUFA has been one of the most successful pieces of governmental reform legislation. During the 5 years since we first passed PDUFA, the average approval time for pharmaceutical products has dropped over 40 percent. The pharmaceutical and biologics industries overwhelming support reauthorization of PDUFA because they have seen tangible results from their fee payments. The American public also supports reauthorization of PDUFA because they have received access to innovative treatments in a more timely manner.

S. 830 also makes considerable progress in expediting patients' access to important new therapies and potentially life saving experimental treatments. I have long held that access to alternative medical treatments is an essential part of health care freedom of choice. Under the conference agreement, patients with fatal illnesses will no longer be denied access to potentially life-saving treatments. I am sure that each of my colleagues can recount tales of constituents who have encountered considerable bureaucratic red-tape in their efforts to access a non-FDA approved but potentially life-saving treatment. Although I have great respect for the role that the agency and its employees play in protecting consumers from unsafe and ineffective products, there is a problem when informed Americans cannot get access to desired therapies. S. 830 makes some much needed reforms to enhance that access.

Mr. President, the conference agreement includes reasonable compromises on provisions concerning medical device labeling, dissemination of information concerning drug off-label use, and regulation of device manufacturing. Ensuring that unapproved medical devices not get onto the market that clearly have a different use than the labeling indicates is a vitally important task. This issue alone was responsible for delaying approval of the Senate version of the FDA Modernization Act. I am pleased that the conferees reached an agreement to give FDA the necessary regulatory authority but not subject manufacturers to the whims of various application reviewers. FDA will be given the necessary authority to prevent fraudulent labeling as a means of achieving product approval.

Similarly, S. 830 strikes an appropriate balance between protecting the public interests and allowing manufacturers to share important off-label use information with providers. It would have been a grave mistake to either prevent the distribution of off-label use

information or not allow the FDA to play a vital role in ensuring the adequacy of information being distributed by manufacturers. I know that a lot of work went into the compromise reached regarding off-label usage information and the agreement greatly benefits the American public.

Mr. President, I would also like to congratulate patient groups for their steadfast pursuit of this reform. During this year, I have met with countless numbers of my constituents who will immediately have better access to medical treatment as a result of this conference agreement. Each time we met, their message was loud and clear—pass FDA reform now. This is a resounding message that I cannot ignore.

S. 830 builds on the reforms that the FDA has already put into place over the past 5 years. The agency has taken a number of steps to streamline administrative functions and work better with industry and consumers to facilitate the availability of cutting edge medical technology. The success that FDA has achieved in reducing the time to review new drugs and get potentially life-saving therapies on the market is laudable. However, more improvements are needed and S. 830 moves another step in the right direction.

My support for S. 830 is not a complete endorsement of the bill. There are a number of important provisions absent from this legislation. I am particularly concerned that the bill does not adequately address food safety, which will certainly emerge as a major public health issue. Most of the recent criticism of the FDA has focused on the biologics and medical technology areas. Regulation of imported food products will probably be the pressing issue of the next millennium. As more imported agricultural products find their way to American tables, there will be more pressure upon FDA to act to prevent tainted products from getting to the market. The recent problems with tainted meat and poultry highlight this need for greater focus on food safety. Hopefully, Congress can revisit the shortcomings in food safety standards next year.

Nonetheless, S. 830 is a good start down the road of FDA reform. This conference agreement is better than the bill passed by either the House or Senate and considerable better than the bill developed last year. I am happy to have a conference agreement that I can support and that I truly believe moves the country in the right direction. S. 830 is good for patients, good for the industry, and good for the Nation's global competitiveness. I hope that my colleagues will join me in supporting this important legislation.

Mr. KENNEDY. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 5 minutes 48 seconds.

Mr. KENNEDY. I yield myself 5 minutes.

Mr. President, I just want to review once again, very briefly, the principal provisions in the legislation which I think are enormously constructive and positive.

First of all, building on the PDUFA record, this provision that we have enacted expands the existing program by setting additional performance targets. It puts special emphasis on expanding early cooperation and FDA and the industry, which will reduce the development time, so that the drug development process, not just the regulatory review process, can be expedited. That is very important.

There are many other positive achievements in the legislation. I am particularly gratified, as I mentioned earlier, with the broader use of the fast-track approval. The streamlined accessibility procedure now available primarily to patients with cancer or AIDS will also be available for drug treatments for patients with any other life-threatening diseases. This bill also provides for expanded access to drugs still under investigation for patients who have no other alternatives. The compromise combines protections for patients with expanded access to new investigational therapies, without exposing patients to unreasonable risks.

The bill includes a new program to provide access for patients to information about clinical trials for serious or life-threatening diseases.

It provides incentives for research on pediatric applications of approved drugs and for development of new antibiotic to deal with emerging, drug-resistant strains of diseases.

It requires companies to give patients advance notification of discontinuance of important products. And in that connection, I am disappointed that we were not able to address the issue of assuring that asthma patients and others will not be put at risk by any abrupt discontinuance of inhalers containing CFC's. I have been informed by FDA that no notice of proposed rulemaking will be issued before this summer, which will give Congress plenty of time to return to this question, if necessary.

The bill includes many measures that will reduce unnecessary regulatory burdens and appropriately clarify its authority.

These provisions, as well as others, are extremely constructive and will be enormously helpful to the American consumer.

Mr. President, I would like to mention some of the staff who have been a crucial part of this whole process. Those members of our staff on the Labor Committee: Nick Littlefield, David Nexon, Diane Robertson, Debbie Kochevar, Pearl O'Rourke, Jim Manley, Leslie Kux, and Carrie Coberly.

Bonnie Hogue with Senator REED, Sabrina Corlette and Peter Reinecke with Senator HARKIN, Jeanne Ireland with Senator DODD, Deborah Walker with Senator BINGAMAN, Anne Grady with Senator MURRAY, Linda DeGoutis with Senator WELLSTONE, Lynne Lawrence with Senator MIKULSKI, and Anne Marie Murphy with Senator DURBIN.

With the Republicans are the following staff:

Jay Hawkins, Sean Donohue, and Mark Powden, with Senator JEFFORDS; Vince Ventimiglia with Senator COATS; Kimberly Spaulding with Senator GREGG; Sue Ramthun with Senator FRIST; and Saira Sultan with Senator DEWINE.

Also, the House staff were instrumental in the success of this conference:

Kay Holcombe, as Senator HATCH has indicated, worked with us when she worked with Senator HATCH on the committee years ago and was very constructive during this process. Howard Cohen, Rodger Currie and Eric Berger also with the Commerce Committee, and Paul Kim on Congressman WAXMAN's staff.

And I thank the FDA staff: Bill Schultz, Peggy Dotzel, and Diane Thompson.

I thank them all very much for all of their help and their involvement.

#### PRIVILEGE OF THE FLOOR

Finally, I ask unanimous consent that Tom Perez, a Justice Department detainee on the Judiciary Committee, be given floor privileges for the remainder of the session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, how much time remains?

The PRESIDING OFFICER. One minute forty-five seconds.

Mr. KENNEDY. Mr. President, we again thank our colleagues and friends and look forward to the passage of this legislation.

If there are no other comments, I would be prepared to yield the remainder of our time.

Mr. JEFFORDS. Mr. President, I yield the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. JEFFORDS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JEFFORDS. Mr. President, I would like to take a moment to thank the staff who have worked to make this bill possible. In the office of Senate Legislative Counsel, Robin Bates, Elizabeth Aldridge, and Bill Baird worked tirelessly to produce countless bill drafts and amendments. I would also

like to commend House Legislative Counsels David Meade and Pete Goodloe for their work on the conference report.

The staff at CRS, especially Donna Vogt, and at GAO, including Bernice Steinhardt deserve thanks for their willingness to provide essential information and documents on extremely short notice.

The staff to the members of the committee contributed greatly to the success of this bill. Vince Ventimiglia with Senator COATS' staff worked closely with mine in a true partnership on all aspects of S. 830.

In addition, Kimberly Spaulding with Senator GREGG, Sue Ramthun with Senator FRIST, Saira Sultan with Senator DEWINE, and Kate Lambrew-Hull with Senator HUTCHINSON all played important roles in fashioning compromises on key provisions of this conference report, as did Dave Larson and Barry Daylin.

Similarly, three staffers for members of the minority on the committee played pivotal roles throughout the process—from the premarkup stage through the development of this conference report. Their assistance was critical to making this bill a bipartisan success.

Lynne Lawrence with Senator MIKULSKI deserves special mention in recognition of her hard work both in the last Congress and in this one on FDA reform. Following passage of this conference report, Lynne will be leaving Capitol Hill. I am extremely pleased that she will be leaving on a high note, and we all wish her the best with future pursuits. Jeanne Ireland with Senator DODD and Linda Degutis, a fellow with Senator WELLSTONE also provided invaluable assistance throughout the process.

Finally, I thank, of course, the Labor and Human Resources Committee majority and minority staffs. On the minority staff, I would like to thank Nick Littlefield and David Nexon and two minority fellows Diane Robertson and Debbie Kochever.

On my own staff, I would like to thank the majority staff director Mark Powden, Jay Hawkins, and majority fellow Sean Donohue. All have devoted substantial portions of their time over the past 10 months to this effort.

Jay Hawkins, in particular, has been key to making this conference report a reality. His tireless efforts, his unfailing good humor, and his patience have allowed this process to maintain steady forward progress to a highly successful outcome.

The round-the-clock work, particularly over the past few days, of all the staff involved in the conference is greatly appreciated.

Mr. President, I could not be happier with this moment and at this time will happily leave the floor.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. TORRICELLI. Mr. President, will the Senator from Iowa yield?

Mr. HARKIN. I yield without losing my right to the floor for a unanimous-consent request.

Mr. TORRICELLI. Mr. President, I ask unanimous-consent that at the conclusion of the remarks of the Senator from Iowa, I be able to address the Senate for 20 minutes.

The PRESIDING OFFICER. The Senator should be aware that under a previous order the Senator from Massachusetts is to be recognized after the Senator from Iowa.

Mr. TORRICELLI. Then I will amend my unanimous-consent request that after those Senators are recognized under the unanimous-consent request that I be able to address the Senate for 20 minutes.

Mr. JEFFORDS. Reserving the right to object, I make a point of order that a quorum is not present.

Mr. HARKIN. Mr. President, I have the floor, I believe, and I yielded only to the Senator for the purpose of a question.

The PRESIDING OFFICER. The Senator from Iowa is recognized, and he has the floor.

The unanimous-consent request from the Senator from New Jersey is on the floor. Without objection, it is so ordered.

Mr. JEFFORDS. I object. I make a point of order that a quorum is not present.

Mr. HARKIN. Mr. President, I believe I have the floor. I only yielded for the purpose of a unanimous-consent request.

The PRESIDING OFFICER. The Senator from Iowa has the floor.

Mr. HARKIN. Mr. President, I will reclaim the floor in my own right and let these Senators work it out if they want to come back.

The PRESIDING OFFICER. The Senator from Iowa has the floor and is recognized for 20 minutes. He may proceed.

Mr. HARKIN. Thank you, Mr. President.

#### FAST-TRACK LEGISLATION

Mr. HARKIN. I want to speak a little about the fast-track bill that is before us and which is scheduled to be voted on in the House tonight.

I doing so, I reread the President's speech on September 10 that he gave on fast track. He gave it at the White House, I believe in the East Room.

I found some interesting remarks in the President's speech. He talked about change. He said, "As we have done throughout our history, we have taken our Nation and led the world to the edge of a new era and a new economy."

He is absolutely right. He talked about the economy, and how we are the largest producer of

automobiles, agricultural exports, semiconductors, steel, and other items.

Then, closer to the end of the speech, the President said, "As we continue to expand our economy here at home by expanding our leadership in the global economy, I believe that we have an obligation to support and encourage core labor standards and environmental protections abroad."

He further said in his speech—this is the President's speech on September 10—"Our goal must be to persuade other countries to build on the prosperity that comes with trade and lift their standards up. As we move forward, we must press countries to provide the labor standards to which all workers are entitled," et cetera.

The President said in his speech that we are part of a new world economy. I would say, yes, Mr. President, we are also part of a new world community—a new world community the likes of which we have never seen because of the rapid dissemination of information, the globalization of communication, the instantaneous transmission of images and voice, transmittal of information around the globe. People living in the remotest villages of Africa, China, or Asia now know what is happening in other parts of the world. No longer is it kept from them. Increasingly the people on this planet are going to demand their human rights, their fundamental basic human rights, their individual freedoms. That is what Tiananmen Square was all about.

Yes, Mr. President, you were right. You were right, Mr. President, to say to President Jiang of China that China was on the wrong side of history at Tiananmen Square. You were right, Mr. President. But, Mr. President, to the extent that we have a trade bill before us that limits your authority to negotiate under fast track regarding exploitative child labor, that weakens the provisions dealing with child labor, then you, Mr. President, and this country are on the wrong side of history.

Those may sound like strong words, but as I have read the President's speech, and as I read the fast-track bill before us, one can only come to one conclusion. This legislation takes us in the wrong direction. It severely limits the ability of the President and our trade negotiators to address the issue of exploitative child labor in trade negotiations. That is right. This bill limits the President's authority. The 1988 bill didn't. I will explain this.

In this bill, child labor is included in a category of issues under the heading "Regulatory Negotiations." Under this heading in the bill, negotiations under fast track on child labor may only cover—I will read it—"the lowering of, or derogation from, existing \* \* \* standards."

That is all. The language does not allow negotiations aimed at getting a country to agree to raise its child labor

standards, no matter how weak or non-existent they may be.

Furthermore, the negotiations may only address cases where the other country's lowering of, or derogation from, its child labor standards is—and I will read it directly from the bill—"for the purpose of attracting investment or inhibiting United States exports."

I want to make sure my colleagues understand that.

First of all, the President may only negotiate regarding the lowering of, or derogation from, existing labor standards. He can't negotiate on strengthening them. And he may only negotiate regarding the situation where the lowering of, or derogation from, standards is done for the purpose of attracting investment or inhibiting U.S. exports.

What about the case where a country lowers or fails to enforce its child labor standards for the purpose of producing goods at lower cost so it can ship them to the United States? That situation is not mentioned in this language, so the President does not have authority to negotiate on that basis according to the terms of the bill. Allowing the use of exploitative child labor to hold the price of goods down is unfair competition, plain and simple, but a country could do that.

Exploitative child labor in foreign countries unfairly puts competing firms and workers at a disadvantage in the United States and in other countries that do not allow it. Yet, the language in this bill does not indicate that President would have the authority to address that kind of unfair competition against U.S. companies and workers in negotiations and agreements under fast track. As long as the other country is not lowering or derogating from its standards for the purpose of attracting investment or inhibiting U.S. exports, our negotiators cannot negotiate to end this unfair competition.

The bottom line is that this bill limits the President's authority to seek agreements that would curtail exploitative child labor.

It is important to clarify this point. I think people will say "HARKIN, what are you talking about? How could it limit the President's authority?"

Well, let us examine that question. Under this bill, the President actually has less authority to negotiate regarding child labor, and submit an agreement to Congress under fast-track procedures, than he had in the most recent fast-track legislation, which was contained in the Omnibus Trade and Competitiveness Act of 1988—the last bill laying out fast-track procedures that we voted on and which this Senator voted for.

That is right. Let me be very clear. The bill before us provides less authority to negotiate on child labor than the bill that we passed in 1988. And that bill has done precious little in terms of exploitative child labor.

Now, let me explain specifically. The 1988 fast-track law was set up in the same way as the bill before us. It had a listing of principal trade negotiating objectives. One of those listed objectives pertained to worker rights, and I will quote from the 1988 law:

The principal negotiating objectives of the United States regarding worker rights are (A) to promote respect for worker rights.

As used in the 1988 fast-track law, the term "worker rights" certainly includes the right of children not to be subjected to exploitative labor. That is the plain meaning of the language, and I have confirmed that interpretation with the Congressional Research Service.

So the 1988 fast-track bill clearly included a negotiating objective encompassing child labor and affirming the President's broad authority to negotiate regarding child labor.

Well, now someone, I am sure, will point out that the bill before us specifically mentions child labor. Yes, it does. The 1988 bill did not, although as I noted child labor was encompassed in the 1988 bill under the heading of worker rights. But the 1988 bill and this bill are vastly different from one another in the way they are structured and how they deal with child labor. The 1988 bill's negotiating objectives were written in broad terms to urge the President to pursue worker rights issues which included child labor. The 1988 language was not really written as a limitation on the President's authority, but rather as an affirmation of the President's expansive authority to negotiate on these issues and an encouragement to seek agreements on these issues with other countries.

By contrast, this bill before us is narrowly drawn to circumscribe and limit the President's negotiating authority regarding exploitative child labor. Unlike the 1988 bill, this bill before us is not written to set objectives and encourage the President to reach them, and to do even better if possible, in reaching sound agreements on exploitative child labor.

Understand this. This bill before us says he may negotiate under fast track only agreements designed to prevent other countries from lowering or derogating from existing child labor standards—no matter how low they may be. He may not negotiate under fast track an agreement in which a country would commit to raise its child labor standards if they are too low or if they do not exist.

And further, a fast-track agreement may prevent a country from lowering or derogating from its child labor standards only in cases where it does so for the limited purposes of attracting investment or inhibiting U.S. exports. This bill is very limited on the President's authority to negotiate regarding exploitative child labor. Again, he can only negotiate on agreements

designed to prevent other countries from lowering their standards, and then he can only do that if that country is lowering its standards for the limited purpose of attracting U.S. investment or limiting U.S. exports.

Mr. President, you wonder who wrote this. Now, I have in good faith talked a lot to the people around the President about exploitative child labor. I have talked to his Trade Representative in good faith about this issue. And you know, initially they said we are going to put child labor in there. Well, they did, but what they didn't say is they put it in in a way that actually limits the President's authority from what he had in the 1988 bill.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 8 minutes remaining.

Mr. HARKIN. In my remaining time, Mr. President, I would like to explain why my amendment that I will be offering on fast track deals specifically with exploitative child labor in a way that will enhance and strengthen the President's position.

Now, there are other labor provisions that ought to be put into this bill, and there has been a lot of debate and disagreement on ways to address labor, environmental, and health and safety issues in this legislation. I understand the reasons for these disagreements. But, honestly, I do not see how there can be any disagreement on the need to address exploitative child labor and to ensure that the President and our trade negotiators do not have their hands tied when it comes to negotiating and concluding agreements on this issue.

This is the benchmark that I believe should be applied to exploitative child labor in examining the bill before us. It is simply this. The President's authority and our directions to him to negotiate on exploitative child labor should be no less than that for the other important issues contained in this bill.

Using that benchmark, I would invite my colleagues to examine the fast-track bill that we have before us. This bill has numerous principal negotiating objectives dealing with a wide range of issues—trade in goods, trade in services, foreign investment, intellectual property, agriculture, unfair trade practices, a host of them.

Again, with respect to all of these other issues, the bill is drafted to articulate objectives, to give guidance and direction to the President, to ensure that the President has sufficiently broad and expansive negotiating authority and to encourage him to use it—a far cry from the limiting way child labor is addressed in this bill.

Look at the language dealing with intellectual property. The bill sets ambitious goals here and confirms the President's broad authority to negotiate and submit any resulting agree-

ment under fast track. In fact, one of the principal negotiating objectives on intellectual property is "the enactment and effective enforcement by foreign countries of laws that recognize and adequately protect intellectual property."

Now, when it comes to intellectual property, the President is not limited to negotiating under fast track only to prevent other countries from lowering or derogating from existing standards. Nor is negotiation limited only to those cases where a country is seeking to attract investment or inhibit U.S. exports.

To protect intellectual property, the President is to seek agreements in which other countries commit to adopt and enforce higher standards if they need to. Not so for child labor. And his negotiating authority to protect intellectual property covers the broad range of ways in which intellectual property rights may be violated. Again, not so for child labor.

My amendment regarding exploitative child labor simply tracks the language in the bill on intellectual property. It is basically the same language, with conforming modifications. My amendment ensures that the President has the same authority to negotiate on exploitative child labor as he has on protecting intellectual property. It puts into the bill that one of our trade negotiating objectives includes the enactment and effective enforcement by other countries of laws against exploitative child labor. It adds exploitative child labor to the bill as a negotiating objective.

My amendment does not tie the President's hands. It does not say there has to be a predetermined outcome on child labor in trade negotiations. It just says that in dealing with exploitative child labor, the President has the authority, the same authority, as he has to protect against the pirating of a song, a computer chip or a compact disc. We ought to ensure this bill gives the President the same authority to seek protection against exploitative child labor as a means of unfair competition as he has to seek protection against the misappropriation of intellectual property as a means of unfair competition.

My amendment says that exploitative child labor will be on the table during negotiations. It will be one of our principal trade negotiating objectives. It will have the same status and stature as intellectual property.

Mr. President, again I am not talking about 18-year-old kids working, or 17-year-old kids, no. This is what I am talking about right here. This picture is of a young girl working in a field in Mexico after NAFTA. We have more children working in Mexico today after NAFTA than we did before. And I do not mean just teenagers. I mean kids 8, 9, 10 years of age, too. And yet we had

some side agreements covering child labor on NAFTA, but they are not being enforced.

We have over 200 million working kids in the world today, more and more being put into factories and plants and, yes, agriculture. My Iowa farmers can compete against anyone in the world, but they cannot compete against that girl because that girl is a slave laborer. That is slave labor. This girl has no choice. She has no options. She cannot go to school. She cannot go to school because she is out in the fields all day, the same as a kid working in a glass factory, a shoe factory, a garment factory, or a rug factory. And these are often kids that are 8, 9, 10 years old.

Now, I believe that our trade negotiators and the people down at the White House have the best of intentions. I am sure there is no one there who likes exploitative child labor. For the life of me, I cannot understand why they sent a bill to us such as they did and why they will go along with such a weak bill relating to exploitative child labor. If they would only compare this bill with the one in 1988, they would understand that the bill before us curtails, circumscribes and limits the President's authority on exploitative child labor relative to the 1988 bill.

I have been talking to people down at the White House about putting exploitative child labor in this bill at the same level as intellectual property, but for some reason they just cannot quite seem to get on board.

There was a time not too long ago when intellectual property rights were regarded as extraneous to trade, just as some argue child labor is today. I remember when I was in the Navy back in the 1960s. People would go to Taiwan and they would get records for perhaps 10 cents each—books and encyclopedias for just pennies—because Taiwan was pirating the records; they were pirating the books and printing them. I remember people I knew in the Navy would go to Taiwan and load up with books and records, but today there are international rules in trade agreements to protect intellectual property. So there was a time when intellectual property was considered extraneous to trade agreements. Not so today. Exploitative child labor should not be extraneous today.

Yes, we are in a new era. We are in a new world economy, but we are also in a new world community. And just as we have taken the lead in the world economy, as we have taken the lead in breaking down trade barriers—and I believe we should—we must take the lead in stopping this, the last vestige of slavery in the world today, exploitative child labor.

We can debate and discuss labor issues, environmental issues, and there are all kinds of different perspectives and arguments about them. There should be no argument on exploitative

child labor. There should be no disagreement on this. There are distinct lines. Children should not be working like this. Our trade negotiators, when they sit down at that table, ought to be negotiating on exploitative child labor. It ought to be a trade negotiating objective. It ought to have the same stature, the same force, the same effect as intellectual property because not only is this a moral imperative of ours; it is imperative to stop it as unfair competition because that child laborer, that child slave, is producing goods that are sent to this country, that compete against our products. My farmers cannot compete against that. Our workers cannot compete against that. They should not have to compete against it. This bill is fatally flawed and the administration needs to get behind the amendment that I will be offering. We need to adopt that amendment to make sure that stopping exploitative child labor has the same force and effect, and the same level of authority, in trade negotiations as stopping the pirating of intellectual property.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. HUTCHINSON). The Senator from Massachusetts.

Mr. KERRY. Mr. President, I believe my order is to speak in morning business.

The PRESIDING OFFICER. That is correct. The Senator, under the previous order, has 20 minutes.

#### WE MUST BE FIRM WITH SADDAM HUSSEIN

Mr. KERRY. Mr. President, I will speak tomorrow on the subject of fast track. I wish to talk this evening about another subject that has not received as much conversation on the floor of the Senate as it merits—because, while we have been focused on fast track and on a lot of loose ends which must be tied up before this first session of the 105th Congress can be brought to a close, a very troubling situation has developed in the Middle East that has ominous implications, not just for our national security but literally for the security of all civilized and law-abiding areas of the world.

Even after the overwhelming defeat that the coalition forces visited upon Iraq in and near Kuwait in the Desert Storm conflict, Iraqi dictator Saddam Hussein's truculence has continued unabated. In the final days of that conflict, a fateful decision was made not to utterly vanquish the Iraqi Government and armed forces, on the grounds that to do so would leave a risky vacuum, as some then referred to it, in the Middle East which Iran or Syria or other destabilizing elements might move to fill.

But instead of reforming his behavior after he was handed an historic defeat,

Saddam Hussein has continued to push international patience to the very edge. The United Nations, even with many member nations which strongly favor commerce over conflict, has established and maintained sanctions designed to isolate Iraq, keep it too weak to threaten other nations, and push Saddam Hussein to abide by accepted norms of national behavior. These sanctions have cost Iraq over \$100 billion and have significantly restrained his economy. They unavoidably also have exacted a very high price from the Iraqi people, but this has not appeared to bother Saddam Hussein in the least. Nor have the sanctions succeeded in obtaining acceptable behavior from Saddam.

Now, during the past 2 weeks, Saddam again has raised his obstinately uncooperative profile. We all know of his announcement that he will no longer permit United States citizens to participate in the U.N. inspection team searching Iraq for violations of the U.N. requirement that Iraq not build or store weapons of mass destruction. And he has made good on his announcement. The UNSCOM inspection team, that is, the United Nations Special Commission team, has been refused access to its inspection targets throughout the week and once again today because it has Americans as team members. While it is not certain, it is not unreasonable to assume that Saddam's action may have been precipitated by the fear that the U.N. inspectors were getting uncomfortably close to discovering some caches of reprehensible weapons of mass destruction, or facilities to manufacture them, that many have long feared he is doing everything in his power to build, hide, and hoard.

Another reason may be that Saddam Hussein, who unquestionably has demonstrated a kind of perverse personal resiliency, may be looking at the international landscape and concluding that, just perhaps, support may be waning for the United States's determination to keep him on a short leash via multilateral sanctions and weapons inspections. This latest action may, indeed, be his warped idea of an acid test of that conclusion.

We should all be encouraged by the reactions of many of our allies, who are evincing the same objections to Iraq's course that are prevalent here in the United States. There is an inescapable reality that, after all of the effort of recent years, Saddam Hussein remains the international outlaw he was when he invaded Kuwait. For most of a decade he has set himself outside international law, and he has sought to avoid the efforts of the international community to insist that his nation comport itself with reasonable standards of behavior and, specifically, not equip itself with implements of mass destruction which it has shown the willingness to use in previous conflicts.

Plainly and simply, Saddam Hussein cannot be permitted to get away with his antics, or with this latest excuse for avoidance of international responsibility.

This is especially true when only days earlier, after months of negotiations, the administration extracted some very serious commitments from China, during President Jiang Zemin's state visit to Washington, to halt several types of proliferation activities. It is unthinkable that we and our allies would stand by and permit a renegade such as Saddam Hussein, who has demonstrated a willingness to engage in warfare and ignore the sovereignty of neighboring nations, to engage in activities that we insist be halted by China, Russia, and other nations.

Let me say that I agree with the determination by the administration, at the outset of this development, to take a measured and multilateral approach to this latest provocation. It is of vital importance to let the United Nations first respond to Saddam's actions. After all, those actions are first and foremost an affront to the United Nations and all its membership which has, in a too-rare example of unity in the face of belligerent threats from a rogue State, managed to maintain its determination to keep Iraq isolated via a regime of sanctions and inspections.

I think we should commend the resolve of the Chief U.N. Inspector, UNSCOM head Richard Butler, who has refused to bend or budge in the face of Saddam's intransigence. Again and again he has assembled the inspection team, including the U.S. citizens who are part of it, and presented it to do its work, despite being refused access by Iraq.

He rejected taking the easy way out by asking the U.S. participants simply to step aside until the problem is resolved so that the inspections could go forward. He has painstakingly documented what is occurring, and has filed regular reports to the Security Council. He clearly recognizes this situation to be the matter of vital principle that we believe it to be.

The Security Council correctly wants to resolve this matter if it is possible to do so without plunging into armed conflict, be it great or small. So it sent a negotiating team to Baghdad to try to resolve the dispute and secure appropriate access for UNSCOM's inspection team. To remove a point of possible contention as the negotiators sought to accomplish their mission, the United Nations asked that the U.S. temporarily suspend reconnaissance flights over Iraq that are conducted with our U-2 aircraft under U.N. auspices, and we complied. At that time, in my judgment this was the appropriate and responsible course.

But now we know that Saddam Hussein has chosen to blow off the negotiating team entirely. It has returned

emptyhanded to report to the Security Council tomorrow. That is why I have come to the floor this evening to speak about this matter, to express what I think is the feeling of many Senators and other Americans as the Security Council convenes tomorrow.

We must recognize that there is no indication that Saddam Hussein has any intention of relenting. So we have an obligation of enormous consequence, an obligation to guarantee that Saddam Hussein cannot ignore the United Nations. He cannot be permitted to go unobserved and unimpeded toward his horrific objective of amassing a stockpile of weapons of mass destruction. This is not a matter about which there should be any debate whatsoever in the Security Council, or, certainly, in this Nation. If he remains obdurate, I believe that the United Nations must take, and should authorize immediately, whatever steps are necessary to force him to relent—and that the United States should support and participate in those steps.

The suspended reconnaissance flights should be resumed beginning tomorrow, and it is my understanding they will be. Should Saddam be so foolish as to take any action intended to endanger those aircraft or interrupt their mission, then we should, and I am confident we will, be prepared to take the necessary actions to either eliminate that threat before it can be realized, or take actions of retribution.

When it meets tomorrow to receive the negotiators' report and to determine its future course of action, it is vital that the Security Council treat this situation as seriously as it warrants.

In my judgment, the Security Council should authorize a strong U.N. military response that will materially damage, if not totally destroy, as much as possible of the suspected infrastructure for developing and manufacturing weapons of mass destruction, as well as key military command and control nodes. Saddam Hussein should pay a grave price, in a currency that he understands and values, for his unacceptable behavior.

This should not be a strike consisting only of a handful of cruise missiles hitting isolated targets primarily of presumed symbolic value. But how long this military action might continue and how it may escalate should Saddam remain intransigent and how extensive would be its reach are for the Security Council and our allies to know and for Saddam Hussein ultimately to find out.

Of course, Mr. President, the greatest care must be taken to reduce collateral damage to the maximum extent possible, despite the fact that Saddam Hussein cynically and cold-heartedly has made that a difficult challenge by ringing most high-value military targets with civilians.

As the Security Council confronts this, I believe it is important for it to keep prominently in mind the main objective we all should have, which is maintaining an effective, thorough, competent inspection process that will locate and unveil any covert prohibited weapons activity underway in Iraq. If an inspection process acceptable to the United States and the rest of the Security Council can be rapidly re-instituted, it might be possible to vitiate military action.

Should the resolve of our allies wane to pursue this matter until an acceptable inspection process has been re-instituted—which I hope will not occur and which I am pleased to say at this moment does not seem to have even begun—the United States must not lose its resolve to take action. But I think there is strong reason to believe that the multilateral resolve will persist.

To date, there have been nine material breaches by Iraq of U.N. requirements. The United Nations has directed some form of responsive action in five of those nine cases, and I believe it will do so in this case.

The job of the administration in the next 24 hours and in the days to follow is to effectively present the case that this is not just an insidious challenge to U.N. authority. It is a threat to peace and to long-term stability in the tinder-dry atmosphere of the Middle East, and it is an unaffordable affront to international norms of decent and acceptable national behavior.

We must not presume that these conclusions automatically will be accepted by every one of our allies, some of which have different interests both in the region and elsewhere, or will be of the same degree of concern to them that they are to the United States. But it is my belief that we have the ability to persuade them of how serious this is and that the U.N. must not be diverted or bullied.

The reality, Mr. President, is that Saddam Hussein has intentionally or inadvertently set up a test which the entire world will be watching, and if he gets away with this arrogant ploy, he will have terminated a most important multilateral effort to defuse a legitimate threat to global security—to defuse it by tying the hands of a rogue who thinks nothing of ordering widespread, indiscriminate death and destruction in pursuit of power.

If he succeeds, he also will have overwhelmed the willingness of the world's leading nations to enforce a principle on which all agree: that a nation should not be permitted to grossly violate even rudimentary standards of national behavior in ways that threaten the sovereignty and well-being of other nations and their people.

I believe that we should aspire to higher standards of international behavior than Saddam Hussein has offered us, and the enforcement action of

the United Nations pursues such a higher standard.

We know from our largely unsuccessful attempts to enlist the cooperation of other nations, especially industrialized trading nations, in efforts to impose and enforce somewhat more ambitious standards on nations such as Iran, China, Burma, and Syria that the willingness of most other nations—including a number who are joined in the sanctions to isolate Iraq—is neither wide nor deep to join in imposing sanctions on a sovereign nation to spur it to “clean up its act” and comport its actions with accepted international norms. It would be a monumental tragedy to see such willingness evaporate in one place where so far it has survived and arguably succeeded to date, especially at a time when it is being subjected to such a critical test as that which Iraq presents.

In a more practical vein, Mr. President, I submit that the old adage “pay now or pay later” applies perfectly in this situation. If Saddam Hussein is permitted to go about his effort to build weapons of mass destruction and to avoid the accountability of the United Nations, we will surely reap a confrontation of greater consequence in the future. The Security Council and the United States obviously have to think seriously and soberly about the plausible scenarios that could play out if he were permitted to continue his weapons development work after shutting out U.N. inspectors.

There can be little or no question that Saddam has no compunctions about using the most reprehensible weapons—on civilians as readily as on military forces. He has used poison gas against Iranian troops and civilians in the Iran-Iraq border conflict. He has launched Scud missiles against Israel and against coalition troops based in Saudi Arabia during the Gulf war.

It is not possible to overstate the ominous implications for the Middle East if Saddam were to develop and successfully militarize and deploy potent biological weapons. We can all imagine the consequences. Extremely small quantities of several known biological weapons have the capability to exterminate the entire population of cities the size of Tel Aviv or Jerusalem. These could be delivered by ballistic missile, but they also could be delivered by much more pedestrian means; aerosol applicators on commercial trucks easily could suffice. If Saddam were to develop and then deploy usable atomic weapons, the same holds true.

Were he to do either, much less both, the entire balance of power in the Middle East changes fundamentally, raising geometrically the already sky-high risk of conflagration in the region. His ability to bluff and bully would soar. The willingness of those nations which participated in the Gulf war coalition to confront him again if he takes a

course of expansionism or adventurism may be greatly diminished if they believe that their own citizens would be threatened directly by such weapons of mass destruction.

The posture of Saudi Arabia, in particular, could be dramatically altered in such a situation. Saudi Arabia, of course, was absolutely indispensable as a staging and basing area for Desert Storm which dislodged Saddam's troops from Kuwait, and it remains one of the two or three most important locations of U.S. bases in the Middle East.

Were its willingness to serve in these respects to diminish or vanish because of the ability of Saddam to brandish these weapons, then the ability of the United Nations or remnants of the Gulf war coalition, or even the United States acting alone, to confront and halt Iraqi aggression would be gravely damaged.

Were Israel to find itself under constant threat of potent biological or nuclear attack, the current low threshold for armed conflict in the Middle East that easily could escalate into a world-threatening inferno would become even more of a hair trigger.

Indeed, one can easily anticipate that Israel would find even the prospect of such a situation entirely untenable and unacceptable and would take preemptive military action. Such action would, at the very least, totally derail the Middle East peace process which is already at risk. It could draw new geopolitical lines in the sand, with the possibility of Arab nations which have been willing to oppose Saddam's extreme actions either moving into a pan-Arab column supporting him against Israel and its allies or, at least, becoming neutral.

Either course would significantly alter the region's balance of power and make the preservation and advancement of U.S. national security objectives in the region unattainable—and would tremendously increase the risk that our Nation, our young people, ultimately would be sucked into yet another military conflict, this time without the warning time and the staging area that enabled Desert Storm to have such little cost in U.S. and other allied troop casualties.

Finally, we must consider the ultimate nightmare. Surely, if Saddam's efforts are permitted to continue unabated, we will eventually face more aggression by Saddam, quite conceivably including an attack on Israel, or on other nations in the region as he seeks predominance within the Arab community. If he has such weapons, his attack is likely to employ weapons of unspeakable and indiscriminate destructiveness and torturous effects on civilians and military alike. What that would unleash is simply too horrendous to contemplate, but the United States inevitably would be drawn into that conflict.

Mr. President, I could explore other possible ominous consequences of letting Saddam Hussein proceed unchecked. The possible scenarios I have referenced really are only the most obvious possibilities. What is vital is that Americans understand, and that the Security Council understand, that there is no good outcome possible if he is permitted to do anything other than acquiesce to continuation of U.N. inspections.

As the world's only current superpower, we have the enormous responsibility not to exhibit arrogance, not to take any unwitting or unnecessary risks, and not to employ armed force casually. But at the same time it is our responsibility not to shy away from those confrontations that really matter in the long run. And this matters in the long run.

While our actions should be thoughtfully and carefully determined and structured, while we should always seek to use peaceful and diplomatic means to resolve serious problems before resorting to force, and while we should always seek to take significant international actions on a multilateral rather than a unilateral basis whenever that is possible, if in the final analysis we face what we truly believe to be a grave threat to the well-being of our Nation or the entire world and it cannot be removed peacefully, we must have the courage to do what we believe is right and wise.

I believe this is such a situation, Mr. President. It is a time for resolve. Tomorrow we must make that clear to the Security Council and to the world.

I yield back the balance of my time.

Mr. TORRICELLI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. TORRICELLI. Mr. President, I ask unanimous consent to return to morning business and address the Senate for 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### FAST TRACK

Mr. TORRICELLI. Mr. President, this Congress is engaged in a great debate about giving the President of the United States virtually unrestricted authority to engage and negotiate with other nations in what has been termed fast-track authority.

Capital markets and international political leaders are waiting to see whether or not this Congress will grant that authority to the President of the United States.

To some, the debate has already been defined as either one of believing in free trade or returning to protectionism. I believe that that is a disservice to this Congress and indeed to the debate itself because the issue is extraordinarily more complex.

The United States needs no lectures about the advantages or the pursuit of free trade nor, indeed, does this Congress. In Bretton Woods, the Kennedy Round, the Uruguay Round, the United States has both led and constructed the current system both in monetary and trade relations.

This country understands that free, unfettered trade, the opening of international markets, is the very foundation of both our own and international prosperity. This generation's standard of living has been based on the lessons of each of these agreements.

As a result, the United States has become the largest importing nation in the world. Indeed, although the United States has an economy that is smaller than the combined economies of the European community, we import more than twice the industrialized product from the developing world.

This trade has been not without benefit to even those industries which seemingly have suffered the most. Although there have been serious dislocations in key industrial industries, like autos and steel and new products like semiconductors and computers, the current competitiveness and efficiency of even these industries have benefited by international trade and competition.

Indeed, it is because of this enhanced efficiency in competition that I supported fast-track authority in 1988, supported the Canada-U.S. Free Trade Agreement and most recently the GATT agreement.

I take the Senate floor today because I have reached my own conclusion that when asked to vote in this body, I will not support fast-track authority as currently requested by the President of the United States this year. I do so despite a long history of supporting similar authority and as one who believes strongly in free trade as enhancing American competitiveness and it being essential to America's quality of life, because I believe the United States has reached an important crossroads in our trade strategy.

Like many Americans, I am simply not convinced that the U.S. Government has a strategy to maximize benefits in current trade agreements. I do not fear the competition of foreign trade. I simply fear that our negotiators are not prepared to protect and defend our national interests with a coherent strategy.

I base my conclusion on four principal problems.

First, over 4 decades, by necessity, through the cold war and in times of threats to our national security, it became necessary for the United States on occasion to compromise in our trade strategy in order to engage in the protection of other important national interests.

By necessity, whether it was to secure Philippine military bases or the

cooperation of Korean or Turkish or a host of other allies, the United States would set apart our trade objectives in order to secure national security concerns.

Even now while American intellectual property rights are being compromised in China, we are being told that this is necessary for the political engagement of the People's Republic of China.

Mr. President, my first objection to fast-track authority to the President is these agreements on trade must stand for economic purposes of their own weight. The American people and this Congress must be convinced the country is pursuing a coherent trade strategy without compromise for other purposes.

Second, it is critical that this Congress be convinced that our trade negotiators are using the leverage of those seeking access to our market to its maximum advantage. In negotiating NAFTA, the United States afforded Mexico the most important advantage that any nation economically could ever seek. That is, to gain access to the American market for their products. But we did so without using all of the leverage available to the United States. So Mexico, a country that is a principal conduit for narcotics into the United States, a source of massive illegal immigration to the United States, a nation which does not allow access to American products or investment without reservation, was afforded the opportunities of NAFTA without, by necessity, conceding cooperation on all these fronts. So in my mind, Mr. President, the second reason for a reservation in proceeding with fast-track authority is that the United States is not using its principal leverage in negotiating with other nations.

Third, Mr. President, in my mind, is the legitimate concern about the pace of international economic integration. Mr. President, during this debate, both in this body and in the other, no one will be quoted more often than Adam Smith. Indeed, to my mind, there is no man who has been read less and quoted more often than Adam Smith in his "Wealth of Nations." For my third reason in objecting to fast-track authority, I return to his treatise of more than two centuries ago when he said, "... freedom of trade should be restored only by slow gradations, and with a good deal of reserve and circumspection. Were those high duties and prohibitions taken away all at once . . . the disorder which this would occasion might no doubt be very considerable."

Mr. President, free trade is a national objective, but like other human virtues, it may never be fully realized. It is forever pursued, but it requires so many changes in culture and values and so many complications that it must remain a goal, understanding it

may never be realized. Every Member of this institution recognizes that fast-track authority and opening the American market involves a host, indeed hundreds, of different industries that compromise many communities and their economic strength. It is understood and recognized that, like manufacturing, certain high-labor-intensive industries have no long-term future in the American economy.

As Adam Smith warned two centuries ago, that does not mean that with haste or even immediacy they must be subjected to their demise. There are industries in this country that employ thousands, if not millions, of people who live on the economic margins of our society who have no other economic choice. The 50- or 60-year-old textile worker who may have lived in this country for generations, or be new to our land, who may speak English or may not, who may be educated or may have the bare minimum of education, will not in a single generation or with the stroke of a pen be transformed from a textile worker to a computer technician.

American trade policy with a goal of free trade must be realistic and fair to all elements of this society and must take into account the very disorder of which Adam Smith warned only that we be accommodating.

Mr. President, finally, a fourth and final reason that I believe this Senate should withhold fast-track authority on this occasion. It is based on a series of judgments that this Congress reached a long time ago. It has become, I believe, standard in this country, almost without reservation, to believe that it is appropriate, from bans on child labor, to a reasonable minimum wage, to the human rights organized labor unions, to just and fair environmental standards. But our country now, in the decision to engage itself in free and open global trade, needs to reach a judgment. How is it we keep these basic commitments without engaging in an extraordinary and even hypocritical contradiction? At this moment in time, the Nation wants both to maintain these high moral standards, some of which have transcended generations, but at the same time to take advantage of the inexpensive products, the economic opportunities of importations where workers have no right to organize, nonexistent or unenforced minimum wage and, in many cases, almost no protections against child labor, and a minimum of environmental standards.

The difference, Mr. President, is whether or not the United States will, in some cases, engage in exploitation, not whether or not the United States will engage in free trade. I believe, therefore, Mr. President, that on this occasion, with a commitment to free trade and an understanding of the need and necessity for the United States to

engage in free, fair, and open competition, this Congress should not grant unrestricted authority to the President of the United States to engage in trade negotiations, without reserving for ourselves the right to ensure that there is a trade strategy that encompasses the goal of reaching trade balance, dealing with structural imbalances that, by necessity, are arising from countries that continue to protect their own markets. And we deal with these inherent contradictions of how we maintain both a standard of living for those in our country who cannot quickly adjust to the competition, the contradictions of maintaining environmental labor standards, while allowing access to our market to those who do not.

This will require a trade strategy by the Executive that, to my judgment, has not yet been defined and may not yet exist. I do hope, however, Mr. President, that this is understood for what it is—not a retreat, not protectionism, just forcing this country, at long last, to begin to define a real and lasting trade strategy.

Mr. President, I yield the floor.

#### UNANIMOUS-CONSENT AGREEMENT—H.R. 2607

Mr. LOTT. After consultation with many, many Senators and especially the Democratic leader, I now ask that the Senate turn to the D.C. appropriations bill, H.R. 2607, and Senator STEVENS be recognized to offer a substitute amendment and that there be 2 hours of debate to be equally divided in the following fashion: 30 minutes between Senators STEVENS and BYRD, 30 minutes between Senators FAIRCLOTH and BOXER, 30 minutes between Senators GREGG and HOLLINGS, 30 minutes between Senators MCCONNELL and LEAHY.

I further ask that no other amendments or motions be in order, and following the conclusion or yielding back of the time, the amendment be agreed to and the bill be advanced to third reading and passage, and all occur without further action or debate.

I further ask that following the adoption, the Senate insist on its amendment, request a conference with the House, and the Chair be authorized to appoint conferees, all without further action or debate.

I ask unanimous consent that in the event that H.R. 2607 is sent to the President without a conference, the Committee on Appropriations, with the concurrence of the chairman and ranking member, be permitted to file in the RECORD within 2 days of final passage and to print as an official document of the Senate a report on the final version of H.R. 2607 as enacted by the Congress.

Finally, I ask unanimous consent that following the disposition of H.R. 2607, the Senate proceed to S. 1502 regarding D.C. scholarships, the bill be

read the third time and passed, and the motion to reconsider be laid upon the table, all without further action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. I want to confirm, as most Senators certainly know, there will be no further rollcall votes tonight, and while the Senators have this 2 hours of time, we don't anticipate the full time will be used.

I yield the floor.

Mr. DASCHLE. I want to commend the distinguished chair and ranking member of the Appropriations Committee. Oftentimes we work through these things, and credit isn't allocated as it should be. In this case, this would not have happened were it not for the extraordinary effort on both sides of the aisle, in particular by the chairman and the ranking member. But I thank all Senators for their cooperation and the extraordinary effort they have put forth to get us to this point.

Mr. LOTT. Mr. President, I thank Senator DASCHLE for making those comments. He is certainly right. Senator STEVENS is very persistent, as is Senator BYRD, his worthy ally in this effort.

This has been a difficult agreement to put together, but it is the right thing to do at this hour. That way, we will have this package in the House and they will have a vehicle with these three bills on which they can act, and that will lead into, hopefully, final passage tomorrow. I do commend them for their very fine work.

I yield the floor.

#### DISTRICT OF COLUMBIA APPROPRIATIONS, MEDICAL LIABILITY REFORM, AND EDUCATION REFORM ACT OF 1998

The PRESIDING OFFICER. Under the previous order, the clerk will report the House bill.

The legislative clerk read as follows:

A bill (H.R. 2607) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1998, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

#### AMENDMENT NO. 1621

(Purpose: Making omnibus consolidated appropriations for the fiscal year ending September 30, 1998, and for other purposes)

Mr. STEVENS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for himself and Mr. BYRD, proposes an amendment numbered 1621.

Mr. STEVENS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

#### PRIVILEGE OF THE FLOOR

Mr. GREGG. Mr. President, I ask unanimous consent that Carl Truscott of my staff be granted floor privileges.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. Mr. President, I ask unanimous consent that after completion of the pending motion and amendment, and passage, the Senator from Michigan, Senator ABRAHAM, be granted 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. FAIRCLOTH. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator is recognized for 5 minutes.

Mr. FAIRCLOTH. Mr. President, as the 105th Congress draws to a close, we are finally, at last, about to complete action on the District of Columbia appropriations bill. The amendment before the Senate incorporates the conference report to the Commerce, Justice, State spending bill and the Foreign Operations spending bill, together with an amendment in the nature of a substitute to the District of Columbia appropriations bill.

I would like to speak very briefly to the provisions of the District of Columbia portion of this omnibus package. First of all, the ranking member of the District of Columbia subcommittee, BARBARA BOXER, and I have ironed out all of our differences and we now have the bill that should have the support of the House and the administration.

At the moment, the District of Columbia is being funded on a temporary basis through a continuing resolution. It is critical that we pass this amendment as soon as possible because the Congress has yet to pass a District of Columbia rescue package and the management reform plan, which we enacted in August. Passage of this bill will ensure that that work goes forward to restructure the city's finances and impose some much-needed management reforms on the city and its various agencies.

The amendment being offered in the nature of a substitute to the District of Columbia appropriations bill will provide funding of \$8 million for management reforms, and these reforms are already under way. But without passage of this bill, the reform program will simply fall apart.

Mr. President, this amendment is very similar to the District of Columbia appropriations bill that has been pending before the Senate for several weeks. This amendment reflects the

work of the Congress, city officials, and the financial control board to bring about a balanced District budget. This budget is balanced 1 year ahead of the schedule set by the Congress in 1995 when it created the financial control board to rescue the city from insolvency and incompetence.

To reach consensus on how to balance the budget, the control board and the elected city council first rejected several of the proposed budgets. This budget is a more conservative approach. This amendment actually cuts most city agencies, with a few exceptions, such as public safety. The focus of this bill is to balance the budget and reform the city's management problems.

It is a good bill and I urge its support by my colleagues. I want to especially thank the ranking member, Senator BARBARA BOXER, and KAY BAILEY HUTCHISON for their hard work on the Appropriations Committee. I want to thank the chairman of the Senate Appropriations Committee, Senator STEVENS, and the distinguished ranking member of the Senate Appropriations Committee, Senator BYRD, for their help and guidance in the past several months. I also wish to take a moment to thank Mary Beth Nethercutt, Jim Hyland, Dave Landers, of my staff, Jay Kimmitt, and the rest of the minority staff for their help on this bill.

Mr. President, I yield the balance of my time.

#### PRIVILEGE OF THE FLOOR

Mr. GREGG. Mr. President, I ask unanimous consent that the following staff members be granted full floor privileges during consideration of the District of Columbia and Omnibus Appropriations bills: James Morhard, Paddy Link, Kevin Linskey, Carl Truscott, Dana Quam, Vas Alexopoulos, Luke Nachbar, Scott Gudes, Karen Swanson Wolf, Emelie East, and Jay Kimmitt.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. Mr. President, I want to speak briefly about the appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for Fiscal Year 1998. The provisions came about through bipartisan negotiations and provides \$31.8 billion, an increase of \$30.9 million above the House level, \$135.3 million above the Senate level, and \$297 million less than the President's request.

Before getting to the details, I want to thank Senator HOLLINGS, and his staff, Scott Gudes, Karen Swanson-Wolf, and Emelie East for all their hard work and dedication to getting this bill written and passed. Their efforts and expertise helped smooth the way for its success through the 99-0 vote in the Senate in July and its presentation to you today.

The committee amendment includes many of the provisions that the Senate

gave top priority to in its bill, but the funding levels reflect our negotiations with the House. Within the Justice Department, the committee amendment retains the Senate initiatives to fight crimes against children, increases assistance to state and local law enforcement, strengthens counterterrorism activities, bolsters drug control efforts, and provides funding for new juvenile programs.

We have funded many programs that will further our efforts in preventing and combating crimes against children. The amendment provides \$10 million in additional funding for the FBI's efforts to stop child exploitation on the Internet. In addition, we're making sure those organizations that work closely with the FBI also receive adequate funding to provide much needed support. There is \$1.7 million for Missing Children; \$6.9 million for the National Center for Missing and Exploited Children, of which \$1.9 million is provided for Internet investigations; \$1.2 million for the Jimmy Ryce Law Enforcement Training Center for State and local law enforcement investigations; and an additional \$2.4 million for State and local law enforcement to form specialized units to investigate and prevent child exploitation on the Internet. These agencies have promising ideas of ways to improve current law enforcement procedures in this area to stop pedophiles from committing further atrocities.

We believe it is the national interest to improve the skills of law enforcement personnel on all levels and supports initiatives to do this. The Community Oriented Policing Services, known as the COPS program, is funded at \$1.4 billion. As part of this provision and with direct funding, we were able to preserve the Senate number of \$25 million for the Regional Information Sharing System so that law enforcement officers throughout the country have increased access to national criminal databases.

The Committee amendment includes an increase in funding for the Violence Against Women Act grants to \$270.7 million. We recognize the need to enhance and expand current women's assistance programs as violent crimes against them continue. The Violence Against Women grants will be given to States to be used to develop and implement effective arrest and prosecution policies to prevent, identify, and respond to violent crimes against women. This funding provides domestically abused women and children with additional support services. Only 20 states received Violence Against Women grants in 1996. We believe there should be sufficient funding for more states to participate in these programs. Consequently, we have appropriated funds for this effort.

In this amendment, we remain committed to ensuring that the U.S. law

enforcement and intelligence community has a comprehensive strategy to combat domestic and international terrorism. In May Congress received from the Attorney General a comprehensive counterterrorism strategy compiled with consultation with other key departments and agencies. During subsequent oversight hearings, it became apparent that vulnerabilities to our national security still exist, especially to the emerging threats from chemical and biological agents and cyber attacks on computer systems within the United States. The hearings also emphasized the need for our efforts to be constantly coordinated among the many participating departments and agencies to make this very critical mission successful. To do this, the conference agreement provides \$32.7 million for the Counterterrorism and Technology Crime Threat.

We remain concerned about the proliferation of illegal drugs coming across our borders and its impact on our children. In an effort to support law enforcement efforts to combat the rampant spread of illegal drugs, the committee devotes \$11 million through the DEA to combat the trade of methamphetamine and \$10 million for efforts to reduce heroin trafficking. The COPS Program includes \$34 million to stop methamphetamine production. We have created a new Caribbean initiative that will disrupt the drug corridors and block the flow of illegal drugs into the United States.

Over the last few years, the infrastructure needs of the organizations funded in this bill have been neglected. We have made a point of providing funds to repair buildings throughout our agencies. Over \$300 million will go to the Federal Bureau of Investigation, the Drug Enforcement Agency, and Bureau of Prisons to make much needed infrastructure improvements.

Regarding the INS, the agreement provides 1000 Border Patrol agents, over \$200 million in new initiatives to restore the integrity of the naturalization process, and adds 1000 new beds for detention, and the ultimate deportation of criminal and illegal aliens.

As a last mention within the Justice portion of the bill, we have increased funding to \$238.6 million dollars for juvenile justice prevention programs with an additional \$250 million for a new juvenile accountability block grant.

In the area of the Commerce Department, we have made some difficult decisions, but, I think they are constructive ones. We have, for example, provided strong support for the National Oceanic and Atmospheric Administration, which does high quality research and provides technical data important to our economy. The Sea Grant program, which conducts research of regional importance through colleges and universities, is strongly supported in this bill at a level of \$56 million.

The committee amendment provides increased funding for the National Weather Service. Many of us are concerned that the agency have the necessary resources to ensure timely warnings of severe weather, including tornados and hurricanes.

There is \$23.4 million for the U.S. Trade Representative taking into account the amended request made by the President recently.

The Bureau of Export Administration has two new requirements which deserve mention. First, the Department of State's encryption export control responsibilities have been transferred to the Export Administration. Second, with the ratification of the Chemical Weapons Convention, the Export Administration will have primary responsibility for enforcing the convention and is thus provided with \$1.9 million to do this.

And I've kept the best for last—well, at least the issue that seems to have the most interest of late—The Census compromise achieved by the White House and the House leadership—it has two parts. First, it establishes a commission to oversee the Census and report regularly on the conduct of the Census. Second, it establishes fast track procedures for judicial review of sampling.

In the Judiciary portion of the bill, we have had to confront some difficult issues, but, I believe we are providing the American people with a better Judiciary through our efforts. The appropriation is sufficient to maintain current judicial operation levels and takes into account the increase in bankruptcy caseloads and probation population. We are also providing the Justices and judges with the 2.8 percent cost of living adjustment requested in the President's budget.

We have established a commission to study the current structure of the circuit courts, especially the controversial Ninth Circuit. During the 1996-1997 session, the U.S. Supreme Court overturned 96 percent of the decisions they reviewed from the Ninth Circuit. This high turnover rate is a beacon that the Ninth Circuit is not meeting the needs of the people it serves. The debate over whether to split it has raged for some years. The commission should end the debate over the Ninth Circuit once and for all.

Moving on to the State Department, we have fully funded, to the best of our ability, the operations carried out by this Department. We made sure that the day-to-day functions of the State Department are funded at acceptable levels, and we are trying to upgrade their outdated technology systems. Maintaining infrastructure was a top priority for the Senate this year. We are providing \$21.4 million above the President's request for the Capital Investment Fund so that desperately needed upgrades in information and communication systems can be done.

And as a final noteworthy item, this bill covers the first down payment for U.N. arrears as well as the State Department Reauthorization bill which includes U.N. reform and State Department reorganization, which we have worked so hard to achieve.

That is a quick run down of the Commerce, Justice, State, and Judiciary provisions before us. I want to thank my staff—Jim Morhard, Kevin Linskey, Paddy Link, Carl Truscott, Dana Quam, Vas Alexopoulos, and Luke Nachbar—for all their hard work. They, and their democratic counterparts, have spent long hours drafting this legislation. I believe this amendment contains sound provisions that have been agreed to by both parties. The departments and agencies funded in this legislation can only benefit from the passage of these new funding levels. I urge all of my colleagues to support the passage of this committee amendment.

Just to quickly comment on that section of the bill, the language which is in this bill dealing with the funding for State, Commerce, Justice, is similar to the language which passed this Senate by a 99-0 vote. The language which is before the Senate at this time is language which has been agreed to by the Democratic and Republican members of the Appropriations Committee unanimously. Again, I strongly encourage the Senate to pass it.

At this time, I yield back the time allocated to myself and Senator HOLLINGS under the bill.

The PRESIDING OFFICER. Without objection, the time is yielded back.

Who yields time?

Mr. STEVENS. Mr. President, we are awaiting another Member who wishes to ask some questions, so I will not yield my time yet.

Mr. BYRD. Mr. President, I fully support the efforts of the chairman, and I congratulate him for the proposal that he has just described which, if adopted, makes it possible to greatly shorten the process of completion of the remaining appropriation bills.

The pending amendment contains the committee's recommendations for the remaining three Fiscal Year 1998 appropriation bills, namely, the Commerce/Justice/State, District of Columbia, and Foreign Operations Appropriation Bills. As Members are aware, the Commerce/Justice/State and Foreign Operations Appropriation Bills were passed by the Senate in July of this year and have been in conference with the House. For those two bills, the committee's recommendations include, to a large extent, the agreements reached by the House and Senate conferees. There are, however, certain issues upon which the conferees were unable to reach agreement. For those particular issues, the committee has recommended proposals which we hope will be acceptable to the Senate and, if

so, which the House can then accept. The chairman and ranking member of the Commerce/Justice/State Subcommittee, Senators GREGG and HOLLINGS, and the chairman and ranking member of the Foreign Operations Subcommittee, Senators MCCONNELL and LEAHY, will make statements regarding their portions of the pending amendment. These very capable chairmen and ranking members have worked tirelessly for months on their respective bills, and they are to be commended by the Senate for their efforts.

For the District of Columbia, as Senators are aware, the Senate has not yet passed the Fiscal Year 1998 appropriation bill. Here again, there are a number of issues which, up to this point, have been unresolved. I am certain that the distinguished chairman of the subcommittee, Senator FAIRCLOTH, and the equally able ranking member, Senator BOXER, will explain in some detail the D.C. portion of the pending amendment and will be prepared to answer any inquiries which Senators may have.

Mr. President, hopefully we are nearing the conclusion of the Fiscal Year 1998 appropriations process. As I have stated, the pending substitute, if enacted, will complete action on the remaining three appropriation bills. Like last year, this has been a very difficult year for the Appropriation Committees. These difficulties, however, like in other recent years, are due largely to attempts to attach controversial legislative riders to appropriation bills. The delays in enacting the remaining appropriation bills are in no way attributable to the chairman or other members of the Appropriations Committee.

In his first year as chairman of the committee, Senator STEVENS has carried out his responsibilities in an outstanding manner. At every step of the process, from the first meeting of the committee this year and throughout all of the hearings and markup sessions that he has chaired, he has shown not only great expertise and skill as it relates to all appropriation matters, but, just as importantly and, perhaps more so, my distinguished friend and colleague from Alaska, Senator STEVENS, has unerringly displayed great patience and bipartisanship on every occasion throughout this, his first year as chairman of the committee. I know that he would have preferred, as I would, to have the thirteen appropriation bills separately adopted and signed into law. But at this late date, I support the chairman's decision and commend him for bringing this proposal to the Senate that, if agreed to, will enable us to complete action on the remaining bills expeditiously.

It may well be that the House will be unable to agree with every recommendation made in the pending substitute. If that is the case, the House

may wish to ask for a conference with the Senate on the matter; or, the House could simply amend the Senate amendment and send the bill back to the Senate without the need for a conference. My point is, that even with the adoption of this proposal, we are not out of the woods. Further action may be required by the Senate. But, I am convinced that if we proceed in the regular manner and continued separate conferences on the Commerce/Justice/State and Foreign Operations Appropriations Bills, and separately complete action in the Senate on the District of Columbia Appropriation Bills, and then conference with the House on it, we may be in for several more weeks of controversy on these outstanding issues on the remaining appropriation bills. Furthermore, there is no assurance that these separate conferences would ever be able to overcome the impasses which have developed and mired them down.

Mr. President, I want the RECORD to show that if given the opportunity to vote on these three appropriation bills separately, I would have voted against passage of the conference report on the Fiscal Year 1998 Foreign Operations Appropriation Bill. At a time when we are under continuing severe budgetary constraints on discretionary spending for our nation's infrastructure—its highways and bridges, water and sewage treatment projects, education and other national priorities—I am opposed to providing appropriations for foreign countries at the same or increasing levels year after year. For example, in my view, the \$3 billion payment to Israel and \$2 billion payment to Egypt should be reduced under the circumstances facing the nation. Even though we are achieving reductions in the Federal budget deficit, we nevertheless still have a Federal debt exceeding \$5.43 trillion and the interest on that debt each year amounting to \$251 billion.

I strongly urge all members to support the chairman of the committee, as well as the chairmen and ranking members of the relevant subcommittees, in the proposal that is before the Senate, and I urge its adoption.

Mr. STEVENS. Mr. President, I call attention to the fact that we will file a statement within 2 days following passage of the bill after the House has acted on the bill, or Congress as a whole. That will be printed as a document, to be a report for this bill that combines these three appropriations bills.

The Senator from Michigan has 10 minutes. If he wants to use that now, Mr. President, I would be pleased to yield the floor.

Mr. ABRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. Mr. President, I thank the Senator from Alaska.

I wish to speak in relationship to this legislation, and in favor in particular of title II of the District of Columbia portion of this legislation.

Title II incorporates an agreement reached recently between House and Senate negotiators to correct provisions in last year's immigration law. These provisions, as they were being interpreted by the Board of Immigration Appeals and others, would have had the effect of changing the rules in the middle of the game for thousands of Central Americans and others who came to the United States because their lives and families had been torn apart by war and oppression and are seeking permanent residency here. That violates the sense of fairness that is so much a part of the American character.

Mr. President, during the 1980s civil wars rocked Central America. These civil wars in Nicaragua, El Salvador, and Guatemala were of great importance to the United States. They critically affected our national security policy, as well as our conception of America's role in the Western Hemisphere.

In 1979, the Sandinistas seized power from Anastasio Somoza. Upon gaining control of the state they carried out a program of land seizure, suppression of civil liberties, and other forms of oppression. They also aligned themselves with the communist government of the Soviet Union. A number of groups formed, seeking to overthrow the Sandinista regime, including some who had played an active role in the overthrow of Somoza on account of his civil liberties violations. These groups ultimately were supported by the U.S. government and became known as the Contras.

The Contras' cause ultimately met with success when, in a stunning upset, Violeta Chamorro defeated the Sandinistas in national elections. But the war, combined with a United States embargo on trade and a series of natural disasters, ruined the economy and added to the unrest that endangered many lives. Approximately 126,000 Nicaraguans fled their homeland, came to the United States, and applied for asylum between 1981 and 1991. That was a quarter of all our asylum applications during that time period.

During that same time, El Salvador experienced a brutal civil war which left tens of thousands dead. Over a quarter of the population were driven from their homes. The economy was left in a shambles. Faced with these terrible circumstances, and with continual danger for themselves and their families, hundreds of thousands of Salvadorans made their way to the United States. They asked for asylum because they feared death at the hands of the leftist guerrillas partially backed by the Sandinistas in Nicaragua, or at the hands of the military and the extrem-

ist death squads. Between 1981 and 1991 approximately 126,000 of these Salvadorans applied for asylum.

During the same era, Mr. President, the people of Guatemala faced similar tragic and extremely dangerous circumstances. Approximately 42,000 of them made their way here and applied for asylum in the United States.

A great many of the Central Americans who came here during this period received some form of encouragement or support from our government for that decision. This started in 1979, when President Carter's Attorney General used his discretionary authority to protect recent arrivals from Nicaragua by establishing an extended voluntary departure program for them. When that program expired, it was extended further through a variety of other congressional and administrative actions.

During the early to mid-1980s, Nicaraguans' claims for asylum had a high success rate, and very few were deported. That success rate began to decline toward the end of the decade. Recognizing the dangers presented by the civil war, however, the Reagan administration in 1987 established a special Nicaraguan Review Program. Based in part on a recent Supreme Court decision bearing on the standard of proof for asylum, the NRP encouraged Nicaraguans to reapply for asylum under the new standard, thereby providing an extra level of review to Nicaraguans whose applications had been denied.

When Violeta Chamorro won the election in 1990, conditions in Nicaragua began to change for the better and the Nicaraguan Review Program began to dissipate. In the meantime, however, many of the Nicaraguans had laid down strong roots here.

The Nicaraguan Review Program was officially ended in 1995. However, the INS established a special phase out program under which Nicaraguans could remain in the country an additional year and receive work authorization. The work authorizations were again renewed in 1996.

There were a number of reasons for this phase out program. But one of its purposes, as expressly stated in agency documents, was to allow the Nicaraguans who had laid down roots here to utilize the additional time to accrue the 7 years they would need to be eligible to adjust their status to legal residents under a procedure called "suspension of deportation." In one form or another, this relief has been in existence for 40 years. In recent times, and until April 1 of this year, it was available to anybody who had been here for 7 years, was of good moral character, and whose deportation would cause extreme hardship to the person or his or her citizen or permanent resident immediate family members.

The Salvadorans and Guatemalans likewise received special protection

from U.S. government authorities. Their asylum claims received a less sympathetic hearing initially. As a result, the Salvadorans filed a class suit, known as the "ABC" class action, subsequently joined by the Guatemalans, in which they challenged the way in which their asylum applications were being handled. President Bush's Administration settled this suit by agreeing to readjudicate their claims, and in order to facilitate this Congress gave the class members a special "temporary protected status" in the 1990 Immigration Act. That temporary status was administratively extended in one way or another while the class members awaited their readjudications.

My point, Mr. President, is that during the 1980's people fearing persecution, fearing death squads, fearing disruptions of their communities, came to America and we took extraordinary measures to make it feasible for them to stay here, even if they had been denied asylum through the official asylum-seeking procedures.

At every step of the way, acts of Congress or acts of the executive branch gave these refugees a very clear signal, that they would be able to remain if they played by the rules then in existence. An informal understanding developed that in the absence of some other mechanism being devised, suspension of deportation would be the means through which they would become permanent residents of this country.

That understanding was undermined when last year's immigration bill changed the rules for suspension of deportation. There are good arguments, Mr. President, indeed, I believe, arguments that would ultimately prevail if tested in court, that those changes were not intended to operate retroactively. That, however, was not the view of some of the leading sponsors of these changes, nor was it the initial view of the INS or the Board of Immigration Appeals. As a result, these Central American refugees—as well as refugees from other countries in like circumstances—face the realistic prospect that a retroactive change in our laws might uproot them yet again.

I am happy to say that, under the negotiated arrangement with the House, this will not happen. The U.S. government will keep its word to Central Americans.

Under the version of the legislation incorporated into this bill, Nicaraguans who were in the United States prior to January 1, 1995 will be permitted to adjust to permanent residence—and get green cards—if they have maintained a continuous presence here. The same right will be extended to their Nicaraguan spouses and children.

In addition, Salvadorans, and Guatemalans who either applied for asylum before 1990 or were members of the ABC

class action suit settled with the U.S. Government, as well as members of their families, will be entitled to receive a hearing on their claims for suspension or withholding and adjustment under rules similar to those in effect prior to the 1996 immigration law. Nothing in the amendment precludes the Government from adapting those rules further to the special circumstances of that class.

Similar relief will be available to those who fled communist regimes in Eastern Europe and the former Soviet Union by December 31, 1990, and filed an asylum claim by December 31, 1991. They too will be able to seek suspension of deportation or withholding of removal under the rules similar to those in effect before passage of last year's law.

This relief also improves current law as applied to the members of these groups in two other respects. First, members of these groups will be eligible to have their cases adjudicated under the more generous rules whether or not they were in deportation proceedings as of the effective date of last year's immigration law. That makes good sense. There is no reason to apply the more generous rules to someone who filed an asylum application, lost on it, and was placed in deportation proceedings, while subjecting to the new rules someone who filed an asylum application at the same time and whose asylum claim has yet to be adjudicated.

Second, none of these refugees will be subject to the 4,000 cap last year's law placed on the number of adjustments that may be granted in any given fiscal year. Thus they will not have to wait in line for a number to become available before their application may finally be acted on. With Central Americans and Eastern Europeans being placed outside the cap, it is expected that the 4,000 ceiling will accommodate the ordinary flow of successful applicants. Should there be more favorable adjudications than 4,000 in any fiscal year, the legislation assumes the INS will continue with its present approach of only issuing conditional grants until a number becomes available. Thus no one who would be the beneficiary of a favorable adjudication would be forced to depart because of the cap's having been reached.

When the outlines of an agreement along these lines first emerged in the House, it included a proposal to eliminate an entire category of legal immigration, albeit a relatively small one, as the price for allowing these people to seek to stay under the rules they had been told would apply to them. Under the final version of the agreement embodied in this amendment, there will be no elimination of any legal immigration category. There will be a temporary reduction of no more than 5,000 visas per fiscal year in the

"other workers" employment-based immigration category, but only after those now in the backlog receive their visas. There will also be a temporary reduction of not more than 5,000 visas per fiscal year in the Diversity visa program. These temporary reductions will last until the cumulative total of these reductions equals the number of Salvadorans and Guatemalans who ultimately adjust to permanent residence. The numbers will be taken evenly out of the two categories.

The legislative process of necessity involves compromise. The version of this legislation before us today contains some provisions that were not in Senator MACK's original proposal. I am quick to say I preferred the original for that reason. First, while I think that temporary reductions in legal immigration categories are far superior to elimination of any, as the House originally proposed, I am not persuaded that we should be doing either. Moreover, since we have current categories with unused visas, if we must turn anywhere to "borrow" visas for these refugees, an approach that I feel is at odds with our humanitarian traditions, I would prefer to borrow any unused visas from the previous fiscal year before making any reductions.

Second, while the legislation makes clear that no retroactive change is to be made in the standards for suspension of deportation as applied to Central American, Eastern European, and Soviet asylum applicants, it also makes clear that we are retroactively changing those standards for everybody else. I see no reason to do so. I have opposed the retroactive application of this provision to all individuals, regardless of their nationality. This is not because I take issue with the objective I believe the House is seeking: to make it harder for some people who have been abusing the rules by dragging out their deportation proceedings in order to accrue the 7 years they need for suspension of deportation. The problem is that the legislation does not and cannot distinguish between those who have been taking advantage of this loophole and others who have done nothing wrong and who have been stuck in administrative backlogs through no fault of their own.

Retroactivity is particularly unjustified with respect to refugees from countries not covered by this compromise who have equities similar to those of the Nicaraguans, Salvadorans, and Guatemalans. In recent years, many people came to the United States under a legal or quasi-legal status, fleeing tyrannical regimes that were either enemies of the United States or allies whose domestic abuses were countenanced because of the country's strategic significance in the struggle for world freedom going on at the time. The retroactivity may force some of these people to leave despite the roots

they have laid down and the fact that the conditions they are returning to remain dangerous.

Despite these reservations, I support this agreement. On the whole it will advance the cause of fairness and the promise that America will make good on its commitments better than if we were to do nothing. It will free a large number of people from the threat of immediate deportation. It will allow some of them to adjust to legal status and assure others of a fair hearing on their effort to do so. Accordingly, Mr. President, I urge adoption of this legislation.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from California.

Mrs. BOXER. Mr. President, I am very pleased to be here, even though it is 7 o'clock on Sunday night, to finally finish up the D.C. appropriations bill. When Senator FAIRCLOTH and I started working together on this, it was way back in the summertime, and in September our bill, this D.C. appropriations bill, was voted out of committee.

It was very easy to do that because the mayor, the city council, the control board, all agreed on the D.C. budget. We basically put it in this bill and we followed on the authorizing committees which had passed the National Capital Revitalization and Self-Government Improvement Act. So what we did was to carry forward the will of this Congress and the will of the people of D.C. as repleated by their control board, their city council, and their mayor putting together a consensus balanced budget.

That all was fine until we came to the floor and, of course, suddenly this bill became a very attractive sort of Christmas tree, way before Christmas, and Senator FAIRCLOTH and I found ourselves looking at each other as the debate swirled around us on immigration, on school vouchers and other things that we really did not anticipate being a part of this bill.

The two of us had very much wanted to move it forward, and I was very candid at the time that there were a couple of provisions in this bill that I was not happy about because I did not think it showed enough respect for the women of D.C. in terms of their right to choose and to those who are seeking recognition of domestic partners, which I think is a local issue.

But I stated at that time that majority rules, and I was not going to hold up the bill because I did not agree with these things, and so we were ready to move forward.

I am very pleased tonight that we have a resolution on the immigration portion. It was a very legitimate issue that was raised by Senators KENNEDY, MACK, and GRAHAM, and I think Senator ABRAHAM was very eloquent on the point that there were in fact refu-

gees who came from Nicaragua, Cuba, El Salvador, and Guatemala who were going to be thrown out of the country without any sort of hearing whatsoever. Senator MOSELEY-BRAUN has raised the issue of Haitians in a similar situation. Although this bill is silent on that, I think we have found other ways to handle her concerns. So it appears to me that we are on our way to having a bill for the people of Washington, DC, and the children of Washington, DC, who desperately deserve to have this bill completed.

The issue of vouchers was handled, I thought, in quite a diplomatic way, which was to remove it from this bill and send it forward to the President as a separate vehicle. I think that really is a way to resolve the problem which right now is very contentious on both sides.

So, Mr. President, I do not have any further comments to make at this time. I stand ready with my colleague from North Carolina to vote on this tonight. I understand we will voice vote it. I understand there are some colleagues who have other things they wish to discuss. I know Senator WYDEN had a provision in the bill, which I strongly supported, dealing with the end of anonymous holds that we have had as a Senate prerogative around here. That appears to be an issue of contention that is no longer in the bill.

So at this time I retain the remainder of my time in case colleagues come over and need it, but at this time I yield the floor.

Mr. President, with the understanding that Senator STEVENS is going to enter into a colloquy with Senator WYDEN, I yield back the remainder of my time.

Mr. STEVENS. Mr. President, I yield such time to the Senator from Oregon as he wishes. I know he has a matter he wishes to discuss, and Senator BYRD and I have time so he can use whatever time of that he wishes.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. WYDEN. I thank the Chair. I thank the chairman of the Appropriations Committee. He has been exceptionally kind to me as a new Member of the Senate. I thank him for yielding to me this time.

Mr. President, I ask unanimous consent at this time that I be permitted to offer my amendment to prohibit secret Senate holds which was agreed to previously in the Senate D.C. appropriations bill.

Mr. STEVENS. Mr. President, I object.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. I do object.

The PRESIDING OFFICER. There is objection.

Mr. WYDEN. Mr. President, then in light of the time that the chairman of the Appropriations Committee has

kindly yielded to me, I should like to take a few minutes to describe why I think this issue is so important.

Mr. President and colleagues, I spoke yesterday afternoon in this body on the need to end Senate secrecy. Within an hour of my talk, three of the most senior Members of the Senate came to me and said they hoped this amendment would prevail.

These three Members probably have an aggregate total of 60 years seniority in this body, and each of them told me that they had been frustrated by instances of this hide-and-seek process that the Senate now has with secret Senate holds.

Certainly most of the American people are not aware of what a hold is. But the fact of the matter is, it is now possible for any Member of the U.S. Senate to unilaterally block the consideration of a bill or nomination from coming to this floor. It is an extraordinary power. It keeps the U.S. Senate from even discussing a nomination or a particular bill. It is one thing to object to something, or plan to vote against something. But in the case of the secret Senate hold, one Member of the U.S. Senate, one Member, can block the consideration of a nomination or bill. And during these last days of a session, this power is not just extraordinary, it is essentially a veto. It is a power that is unbeatable.

I would just say to my colleagues that, as a new Member of the U.S. Senate, every day I am impressed by the greatness of this institution. And I don't think that the greatness of this institution will in any way be diminished if this body is open and accountable. I think that is why senior Members of the U.S. Senate have come to Senator GRASSLEY and myself and said, "I hope you prevail on this."

We are not seeking to block the right of a Senator to impose a hold. Under what we have proposed, each Member of the U.S. Senate could still use the hold, block the consideration of a nomination or bill. All we are saying is that it cannot be done behind closed doors. This Senate secrecy doesn't smell right. It doesn't pass the smell test to the American people. What Senator GRASSLEY and I have proposed is that within 48 hours after a Member of the Senate informs the leadership that he or she is going to put a hold on a bill, that be so noticed in the CONGRESSIONAL RECORD.

Recently there were more than 40 holds. Outside, much of the day, has been a group of people, outside the Chamber, simply trying to keep track of all the revolving holds, where a Senator imposes a hold for a short period of time and then, in effect, another Senator comes along and imposes a hold again. Outside the Chamber throughout this day there have been individuals trying to keep track of what is going on.

I would say to my colleagues, I subscribe to the not exactly radical notion that public business is done in public. The use of this hold in the last few days of a session is not just some small thing. It is an extraordinary power. It can affect millions of dollars. It can affect the course of the judiciary and other key executive branch appointments. I am very concerned that at a time when the public is so skeptical and so cynical about Government, that this use of the secret hold simply feeds that cynicism. It contributes to the sense that the American people have that so much in Washington, DC, is not on the level.

So, I am very grateful to Chairman STEVENS for giving me this time to explain my point of view. Senator GRASSLEY and I have indicated that we will be back. We will be back at the beginning of next session. I have tried for almost 15 months to get this issue before the U.S. Senate. The fact is, it is most abused right at this time, which is why we saw last week more than 40 holds. It was the subject of a hilarious press conference with the Senate minority leader, who said then that he couldn't figure out where all the holds were coming from.

So Senator GRASSLEY and I are not going to prevail tonight. I think that is bad news for democracy. I think the secret hold cheapens the currency of democracy. But we will be back. We will be back until we make this institution more open and accountable.

Senator STEVENS has been kind to give me all this time to explain my views. I appreciate that courtesy very much and I thank him for the time.

The PRESIDING OFFICER (Mr. ENZI). The Senator from Alaska.

Mr. STEVENS. Mr. President, I regret that I have objected to the amendment. I tell my friend from Oregon that the practice that he seeks to change is embedded in our rules; not in any law. During the period of time that I served here, 8 years as whip, Republican assistant leader, 4 years in the minority and 4 years in the majority, we had a different way at that time of handling what is now known as a hold.

A hold is nothing more than an agreement of another Senator to object on behalf of a Senator at the request of the second Senator to prevent a unanimous consent agreement from coming into play. There is nothing in the rules about holds. It is a practice that has built up. To try to pass a law to deal with a practice of the Senate—I would call to the attention of the Senator from Oregon, there is a law that Congress cannot sit in Washington after July 31st. It has been the law for many years.

We will not change the practices of Senate by law. What we have to do is get some rule changes, or a standing order that would apply to Senators. But the issue is whether a Senator in

each instance, in this case whether the leaders, may object on behalf of a Senator who says, "I want to object and I may not be there at the time the subject comes up, and I want you to object for me." That is known as a hold today.

When I first came to the Senate there was an official objectors' committee. It was unofficial in that sense, but on each side they had two or three Senators who agreed to be on the floor. At any time, one of them was here. And they objected to unanimous consent requests if they had been requested to do so by Members.

It later became a prerogative of the leadership to do that. I think I would have to rely on my friend from West Virginia to give the complete history of it. I do not have the memory that he has. But I can assure you that he will instruct us one of these days about the history of this practice.

But I do regret having to object. I understand what the Senator from Oregon and the Senator from Iowa are trying to do. I wish them success, because I find holds to be very burdensome to deal with, whether it's from the leadership point of view or the point of view of a chairman of a committee.

Mr. WYDEN. Will the chairman yield briefly for just a moment?

Mr. STEVENS. Just for a few minutes, because I agreed to go to dinner with my wife tonight. If the Senator will be short, I will be glad to yield.

Mr. WYDEN. I thank the chairman. Far be it from me to interfere with that.

First, I thank the chairman for his courtesy and say I would very much like to work with him, to get this practice changed. I have, in fact, spent a considerable amount of time with Senator BYRD on this. He was very helpful as well.

I would finally say to the chairman that with respect to this matter of courtesy, I and Senator GRASSLEY have no concern about that. Of course the hold, if we are talking about a few days or a few hours as a courtesy, is not what is at issue. It is when a Senator digs in to try to block a bill that there ought to be some public disclosure.

But to me the chairman has been very helpful, not just on matters from our committee like Internet and the like, but generally. I want to tell him I am very interested in working with him on it because I think this is an opportunity to keep the greatness of this institution and still make it more open and democratic. I thank him for all the time.

#### CENTRAL AMERICAN REFUGEES

Mr. KENNEDY. Mr. President, this appropriations bill contains immigration provisions to provide much-needed protection from deportation for Central American refugee families and an opportunity for permanent residence in

the United States under our immigration laws.

This legislation is an important step, and I commend Senator MACK and Senator GRAHAM for their extraordinary work and leadership in helping these refugee families and for bringing this issue before the Senate.

I deeply regret, however, that these provisions don't go far enough. Last year, Congress changed the rules and broke the faith with thousands of refugee families from Central America and Haiti who fled civil war, death squads, and oppression. They found safe haven in America, and they have contributed significantly to the United States and to communities across the country.

They were allowed to remain in the United States under bipartisan immigration rules established by President Reagan, affirmed by President Bush, and reaffirmed by President Clinton.

But last year, the Republican Congress withdrew the welcome mat. Now, these deserving families who have suffered so much are suddenly faced with deportation. They had been promised their day in court, but that day has been unfairly denied.

This legislation is a frank admission by the Senate that last year's immigration law treated these families unfairly, and that something must be done to correct this grave injustice.

But instead of correcting the injustice for all refugees, Republicans now propose to pick and choose among their favorite Latino groups, and deny any relief to Haitian refugees at all.

Republicans want a blanket amnesty for Nicaraguans and Cubans, but far less for Salvadorans and Guatemalans who also faced oppression and civil war.

They also provide protection from deportation for Eastern European refugees, but nothing for those who fled for their lives from Haiti.

The Republican proposal is unjust and shamefully discriminatory. These refugee groups faced similar circumstances and have a similar history. First the Reagan administration, then the Bush administration, and then the Clinton administration assured them that they could apply to remain permanently in the United States under our immigration laws. Under those laws at that time, if they have lived here for at least 7 years and are of good moral character, and if a return to Central America or Haiti will be an unusual hardship, they are allowed to remain.

Last year's immigration law eliminated this opportunity for these families by changing the standard for humanitarian relief. It said the families had to live here for 10 years, not just 7, to qualify to remain. It created a much higher standard for proving that their removal from the United States would pose a great hardship to the family. It limited the number of persons who

could get relief from deportation to only 4,000 per year. All other families would be deported, even if they otherwise qualified for relief under this program.

Americans across the political spectrum have called on Congress to ensure that the rules are not changed unfairly for these families. President Clinton has urged Congress to give them the day in court they have been promised for the past decade.

They include people such as Zulema, who fled to Miami in 1986 to escape civil war. Her husband and four children are all legal permanent residents of the United States. They have their green cards. Two of the children are now serving in the U.S. Army and have been stationed in Bosnia. But Zulema still does not have her green card and faces deportation.

Her family escaped war and persecution. They rebuilt their lives in America. Her children have put their lives on the line in Bosnia in service of their adopted country. It is unfair to suddenly change the rules and deport their mother.

Roberto, age 6, was abandoned by his parents in El Salvador during that country's tragic civil war. He came to the United States and was raised here by his aunt, who is an American citizen. Today, he is 18 years old and a freshman at Middlebury College in Vermont. He is an honors student planning a career in medicine. His only memories of El Salvador are of the war. He does not even know if his parents are still alive. Roberto, too, faces deportation.

These are the kinds of persons we are talking about. They have played by the rules laid down by both Republican and Democratic administrations. They have obeyed the law. They have made worthwhile contributions to our communities. In fact, the assistant manager of Dade County in Florida estimates that Dade County would lose \$1 billion in revenue if these families are forced to leave.

But while offering assistance to Central American refugee families, the provisions of this amendment contain troublesome inequities that cannot be ignored.

The Republican bill provides for case-by-case consideration of the applications of refugees from El Salvador or Guatemala. Under current INS practices, less than half of those eligible to apply are expected to get their green cards. But refugees from Nicaragua and Cuba get a blanket amnesty.

Refugees from all four countries fled violent civil wars, death squads, rogue militias, and violations of their basic rights. Their families suffered persecution and death threats. Once here, they followed the rules laid out by our Government. But now, one group gets green cards—no questions asked—while the other is considered only on a case-by-case basis.

I am also concerned that this legislation does not also help refugees from Haiti. In the Bush administration—and again in the Clinton administration—Haitian refugees, like Central Americans, were granted temporary haven in America from the rampant persecution and violence in Haiti. Many Haitians risked their lives by opposing the forces of oppression in their country and standing up for democracy and freedom. Yet, this amendment does nothing for these deserving families. They deserve their day in court, too.

Congress should act on behalf of these Haitian families too, and I hope we will do so before the session ends.

Once again, I commend Senator MACK and Senator GRAHAM for their leadership on this important issue.

I regret, however, that the Republican leadership did not see fit to allow us to offer amendments to ensure equal treatment for all Central American and Haitian refugees.

Mr. KOHL. Mr. President, my thanks to the chairman and ranking member for their hard work on the District of Columbia appropriations bill and for working with me on an amendment of vital importance to the children and families of the District. I am very pleased that they have agreed to accept my amendment which would allow the District to increase the number of monitors and inspectors responsible for upholding safety and quality standards in day-care centers and home-care operations across the city.

Mr. President, in early October we all had the occasion to read an extremely troubling article on the front page of the Washington Post. As part of a series on welfare reform implementation, the Post discussed the deplorable and unsafe conditions at many District day-care facilities. Many of the problems could be traced to the fact that the people and resources dedicated to overseeing child care centers in the District are woefully inadequate.

We learned that of the approximately 350 public day-care centers in the District of Columbia, more than half are operating without proper licenses. The primary inspection agency has been without a supervisor for almost a year and a half. There are only five inspectors charged with issuing and enforcing licenses to District child care centers, and only three people in charge of certifying which centers should be eligible for public funds. Those who are clearly suffering as a result are the children, far too many of whom are spending their days in an environment where they are unstimulated, uncared for, and even in mortal danger.

The availability and regulation of quality day-care centers and home-care operations in the District and across the country is a crucial component of successful welfare reform. Simply put, welfare reforms will not succeed unless moms and dads across the country

have a safe place to leave their children while they are out earning paychecks.

Not only that, welfare reform has and will continue to increase greatly the demand for day-care slots. In the District alone, it is predicted that 4,000 additional slots will be needed to accommodate the schedules of working parents. That number mirrors the situation in the city of Milwaukee in my home State of Wisconsin. As more, new child care centers spring up to meet this new demand, tough, consistent licensing standards, applied and enforced by an adequate number of inspectors, are essential to avoiding more tragedies like we are witnessing in the District.

I am a supporter of welfare reform because I believe the family is strengthened by work. But that premise is destroyed—and the success of true reform, jeopardized—if we force parents to choose between work and the basic safety of their children. As a society, we have a responsibility to help American families become independent, unified, and strong by moving them off welfare and into the workplace. As a people, we have a moral duty to ensure that children of those families are safe and nurtured while their parents work. We will have crippled more than just welfare reform if, because of inadequate attention to the quality of child care in this country, we force parents to turn their children over to dangerous, deplorable child care situations.

I am very pleased that the Senate has agreed to incorporate my amendment into the spending legislation for the District of Columbia. Obviously, this is a crisis situation which the additional staff will help address.

That said, much more needs to be done. This problem goes way beyond a question of mere staffing numbers. As such, in addition to this amendment, the chairman and I will be writing a letter to the Control Board to ensure that oversight and proper licensing and enforcement of safety and quality regulations by District agencies is an integral part of the comprehensive management reform plans scheduled to be unveiled in December.

Specifically, we will press the Control Board on procedures for day-care center and home day-care licensing, rates of inspection, the effectiveness of safety and quality standards at day-care centers and home day-cares, the effectiveness of public subsidy and case referral services in the District day-care system, the effectiveness of the current system of public oversight of day-care center and home day-care operations as conducted by the Department of Consumer and Regulatory Affairs and the Department of Human Services, and appropriate staffing levels at these agencies.

Again, I am pleased that the Senate has agreed to my amendment. I consider it to be one of many steps we need to take on this very important issue. I look forward to working with the District on finding solutions to this and other pressing problems relating to the quality of life in our Nation's Capital.

Thank you.

ARMY CORPS OF ENGINEERS FUNDING

Mr. GORTON. Mr. President, I rise for two brief colloquies with the distinguished chairman of the Appropriations Committee. I first want to bring to the distinguished chairman's attention some confusion regarding the committee's intent for approximately \$6 million of the Army Corps of Engineers' budget. This money was intended to fund a very important project in Washington State. Unfortunately, we have been informed by the local Corps of Engineers office that without more specific direction from Congress, the agency cannot spend these funds. The Senate accepted the House position on this project, which was to provide \$6 million for the Corps of Engineers to extend the south jetty at the Grays Harbor project to provide a permanent solution to the ongoing erosion problem. Would the chairman agree that my description of where these funds will be spent is consistent with the Conference Committee's intention?

Mr. STEVENS. The Senator is correct. The conference committee intends for the \$6 million to be allocated to extend the south jetty at the Grays Harbor project to provide a permanent solution to the ongoing erosion problem.

Mr. GORTON. Thank you, Mr. Chairman. My second colloquy pertains to an additional \$2 million from the Corps budget that should be allocated to dredge, monitor, and maintain the channel to determine the potential for cost effective maintenance near the Willapa River. Regrettably, the direction that our committee gave the Corps did not adequately distinguish between two phases of the Willapa Project. The first phase, which called for beach nourishment to protect the highway from wave erosion has been completed. The second phase, calling for channel dredging, monitoring and maintenance, has yet to be started. It was the original intention of the project proponents that the \$2 million allocated for this project be directed to its second phase. The local office of the Corps of Engineers has indicated that it can spend the funds appropriately, provided it be given the necessary direction by Congress. Mr. chairman, given this misunderstanding, do you have any objection to the Corps using these funds for this purpose?

Mr. STEVENS. I have no objection to the Corps using the funds for that purpose. We have allocated significant

funding for these projects and it is very important to ensure the funds are not wasted on needs which have already been addressed.

Mr. GORTON. Thank you very much for the clarification, Mr. chairman. I greatly appreciate the Chairman's efforts on these two projects which address important economic, environmental, and public safety needs in southwest Washington. I also want to commend the chairman of the Energy and Water subcommittee, Senator DOMENICI, whose efforts were crucial to securing the necessary funds.

Mrs. MURRAY. Would the Chairman yield?

Mr. STEVENS. Of course.

Mrs. MURRAY. I would like to thank the distinguished chairman for his hard work on this bill and for his clarification here today. These projects will accomplish a great deal for two communities in southwest Washington state and I appreciate his hard work, as well as that of the subcommittee chairman's.

Mr. MACK. Mr. President, I ask unanimous consent that a section by section analysis of Title II of the D.C. appropriations portion of the omnibus appropriations bill be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXPLANATORY MEMORANDUM REGARDING TITLE II OF THE D.C. APPROPRIATIONS PORTION OF THE OMNIBUS APPROPRIATIONS BILL SUBMITTED BY MESSRS. MACK, GRAHAM, ABRAHAM, KENNEDY, and DURBIN  
PURPOSES OF THE BILL

The purpose of this Act is to ensure that nationals of certain specified countries who fled civil wars and other upheavals in their home countries and sought refuge in the United States, as well as designated family members, are accorded a fair and equitable opportunity to demonstrate that, under the legal standards established by this Act, they should be permitted to remain, and pursue permanent resident status, in the United States.

In recognition of the hardship that those eligible for relief suffered in fleeing their homelands and the delays and uncertainty that they have experienced in pursuing legal status in the United States, the Congress directs the Department of Justice and the Immigration and Naturalization Service to adjudicate applications for relief under this Act expeditiously and humanely.

SECTION-BY-SECTION ANALYSIS

Section 201—Short title

This Act may be cited as the "Nicaraguan Adjustment and Central American Relief Act."

Section 202—Adjustment of status of certain Nicaraguans and Cubans

This section provides for Nicaraguans and Cubans who came to the United States before December 1, 1995 and have been continuously present since that time to adjust to the status of permanent residents provided they make application to do so before April 1, 2000. The Act also extends this benefit to the spouses, children, or unmarried sons or daughters of those individuals. This portion

of the Act is modeled on the Cuban Adjustment Act.

Section 203—Modification of certain transition rules

Section 203 of the bill modifies the transition rules established in Section 309 of the Illegal Immigration and Immigrant Responsibility Act of 1996 ("IIRIRA"), Public Law No. 104-208; division C; 110 Stat. 3009-627.

Section 203(a) amends the transition rule governing eligibility for suspension of deportation for those who were in exclusion or deportation proceedings as of April 1, 1997, the effective date of IIRIRA. Under the rules in effect before then, on otherwise eligible person could qualify for suspension of deportation if he or she had been continuously physically present in the United States for seven years, regardless of whether or when the Immigration and Naturalization Service had initiated deportation proceedings against the person through the issuance of an order to show cause ("OSC") to that person. As a result, people were able to accrue time toward the seven-year continuous physical presence requirement after they already had been placed in deportation proceedings.

IIRIRA changed that rule to bar additional time for accruing after receipt of a "notice to appear," the new document the Act created to begin "removal" proceedings, the repatriation mechanism IIRIRA substituted for deportation and exclusion proceedings. Over a strong dissent, a majority of the Board of Immigration Appeals in *Mater of N-J-B* interpreted IIRIRA Section 309(c)(5) to apply not only prospectively in removal cases initiated by means of this new document but also retroactively to those who were in exclusion or deportation proceedings initiated by an order to show cause. On July 10, 1997 Attorney General Reno vacated and took under review the BIA's decision in *Mater of N-J-B*.

Section 203(a) generally codifies the majority decision in *Mater of N-J-B* by stating explicitly that orders to show cause have the same "stop time" effect as notices to appear. Excepted from retroactive application of the "stop time" rule are (1) those whose cases are terminated and reintitiated pursuant to IIRIRA Section 309(c)(3); and (2) those who, based on their special circumstances, are eligible for relief from repatriation under this Act, as described below.

As defined in Section 203(a) of the Act (amending IIRIRA Section 309(c)(5)), those who are eligible for relief under the Act (referred to hereinafter as "Eligible Class Members") include:

Salvadorans who entered the United States on or before September 19, 1990 and who, on or before October 31, 1991, either registered for benefits under the settlement agreement in American Baptist Churches, et al. v. Thornburgh, 760 F. Supp. 796 (N.D. Cal. 1991) (the "ABC Settlement") or applied for temporary protected status.

Guatemalans who entered the United States on or before October 1, 1990 and registered for benefits under the ABC Settlement.

Salvadorans and Guatemalans not included in the foregoing groups but who applied for asylum on or before April 1, 1990.

Nationals of the Soviet Union (or any of its successor republics), Latvia, Estonia, Lithuania, Poland, Czechoslovakia (or its successor republics), Romania, Hungary, Bulgaria, Albania, East Germany and Yugoslavia (or its successor republics) who entered the United States on or before December 31, 1990 and applied for asylum on or before December 1991.

Under Section 203(a) of the bill, the foregoing Eligible Class Members may pursue and be granted suspension of deportation or cancellation of removal without having their continuous physical presence in the United States terminated as of the date of service of an order to show cause or notice to appear. As Section 203(a)'s amendment to section 309(c)(5)(C)(i) of IIRIRA makes clear, these class members are eligible for this treatment even if they were not in proceedings on or before April 1, 1997.

Also eligible for relief from repatriation under this Act are those who, at the time an Eligible Class Member is granted relief from repatriation under this Act, are either (1) the spouse or child (as defined in Section 101(b)(1) of the Immigration and Nationality Act) of such person; or (2) the unmarried son or daughter of such person, provided that, if the unmarried son or daughter is 21 years of age or older when the parent is granted relief under this Act, the son or daughter must establish that he or she entered the United States on or before October 1, 1990.

Those who otherwise would be eligible for relief but have been convicted of an aggravated felony (as defined in Section 101(a) of the Immigration and Nationality Act) are not eligible for relief. Moreover, those deemed ineligible for relief under this Act may not seek judicial review of this decision.

Section 203(b) of the bill adds a new subsection (f) to the IIRIRA Section 309 transition rules. Under this new provision, Eligible Class Members who were not in exclusion or deportation proceedings as of April 1, 1997 may apply for cancellation of removal—the relief from repatriation replacing “suspension of deportation,” which was available under the pre-IIRIRA rules—and adjustment to permanent resident status under a special set of standards, subject to the following limitations:

Generally speaking, Eligible Class Members will be eligible for cancellation of removal and adjustment of status if they can establish that: (1) they have been physically present in the United States for a continuous period of seven years immediately preceding the date of application for relief; (2) they have been of good moral character during that period; and (3) removal would result in “extreme hardship” to the person or to a spouse, parent or child who is either a U.S. citizen or lawful permanent resident.

Those who are inadmissible or deportable because of certain offenses—including engaging in certain activities threatening U.S. national security (8 U.S.C. §§ 212(a)(3), 237(a)(4)); conviction of an aggravated felony at any time after admission (8 U.S.C. § 237(a)(2)(A)(iii); or participating in the persecution of others (8 U.S.C. § 241(b)(3)(B)(ii))—are ineligible for cancellation of removal and adjustment of status.

Those who are inadmissible or deportable because of certain other offenses—including engaging in specified criminal activity (8 U.S.C. §§ 212(a)(2), 237(a)(2)); or failure to comply with certain INS rules, including engaging in document fraud (8 U.S.C. § 237(a)(3))—are eligible for cancellation of removal and adjustment of status if they can establish that (1) they have been physically present in the United States for a continuous period of ten years immediately following the event that otherwise would constitute a ground for removal; (2) they have been a person of good moral character during that period; and (3) removal would result in exceptional and extremely unusual hardship to the person or to a spouse, parent or child who is either a U.S. citizen or lawful permanent resident.

These standards generally echo the standards for suspension of deportation that had been in effect until IIRIRA. Nothing in these standards is intended to preclude the Attorney General from adapting the procedures under which Eligible Class Members' applications for cancellation or suspension are to be adjudicated in a manner appropriate to the circumstances of the individuals whose cases are before her. These cases have already been drawn out enough as a result of the uncertainties about the applicable standard brought about by the changes to the law made by IIRIRA and uncertainties about the meaning of those changes.

In particular, given the special solicitude Congress is showing toward the Eligible Class Members by enacting this legislation in large measure to see to it that their claims are fairly adjudicated, it would, for example, be entirely consistent with that intent for the Attorney General to direct INS attorneys to consider the special hardships undergone by them and the fragile economic and political conditions in their home countries as relevant to the extreme hardship determination. For this reason, it would also be appropriate for the Attorney General not to challenge applications for relief by Eligible Class Members on hardship grounds if the applicant satisfies the seven-year presence and good moral character requirements. This would be similar to the approach taken by President Bush in the context of the review of asylum applications by Chinese nationals based on China's policy of forced abortion and coerced sterilization. See November 30, 1989 Memorandum of Disapproval signed by President Bush; December 1, 1989 and January 4, 1990 cables from INS Commissioner Gene McNary to all field offices (File CO 243.69-P); Executive Order 12711 (April 11, 1990); 55 Fed. Reg. 13897 (April 13, 1990). More generally, it would be entirely consistent with Congressional intent for the Attorney General to establish procedures that keep to a minimum the burdens an applicant of good character has to shoulder in order to qualify for relief, both in terms of the paperwork the applicant has to complete and the showings the applicant has to make.

In addition to recognizing the special circumstances to which the ABC class members have been subjected, application of the foregoing approach would greatly reduce the need for protracted analysis of the more subjective aspects of the suspension standard, thereby reducing the administrative burden on the Immigration and Naturalization Service and minimizing further delays in according relief to these individuals. Adoption of such an approach would be entirely consistent with Congress' intentions in adopting this legislation, and with its interest in seeing to it that any future difficulties these people may experience in getting a final resolution of their status here to be kept to a minimum.

Section 203(c) of the bill permits Eligible Class Members previously placed in deportation or removal proceedings who claim eligibility for relief from repatriation under the Act to file a single motion to reopen such proceedings to pursue relief from repatriation; such relief might otherwise have been barred on procedural grounds. The Attorney General must designate a time period not greater than 240 days within which motions to reopen must be filed; the time period must begin within 60 days after the date of enactment of this Act. We note that because a number of the Eligible Class Members arrived in this country with no understanding of the court system and no English, some

may have had court proceedings initiated against them and been tried in absentia. Others were minors too young to remember that they had been in immigration court. As a result they may not know that they have final orders of deportation entered against them. We encourage all elements of the Department of Justice and the Immigration and Naturalization Service to work to facilitate making that information available to these individuals, including by affirmatively serving notice on Eligible Class Members subject to such orders. We also note that nothing herein prevents the Attorney General from adopting an approach to the deadlines set out here consistent with application of ordinary tolling principles. Finally, we note that if an Eligible Class Member files a motion to reopen and it is determined that the applicant would qualify for some other form of relief, such as adjustment on the basis of an approved visa with a current priority date, that could be adjudicated far more easily than a suspension application, that relief may be granted instead.

Section 203(d) establishes certain temporary reductions in the number of visas made available in the “other workers” and “diversity” immigration categories. Beginning in FY 1999, up to 5,000 fewer visas shall be made available on an annual basis in the diversity category. A similar annual reduction shall be made in the “other workers” category, but that reduction shall not begin to be made until everyone with an approved petition for a visa in this category as of the date of enactment of the Act has had a visa made available to him or her. The total reduction in the visas issued under these two categories shall equal the total number of individuals described in subclauses I, II, III, and IV of section 309(c)(5)(C) of IIRIRA, as amended by this Act, who are granted cancellation of removal or suspension of deportation under the Act. Each category shall absorb half of the reductions.

*Section 204—Limitation on cancellations of removal and suspensions of deportation*

IIRIRA established a 4,000-person annual limit on the Attorney General's ability to grant relief from repatriation. Eligible Class Members and designated family members, as well as those who were in deportation proceedings as of April 1, 1997 and who applied for suspension of deportation under INA Section 244(a)(3) (as in effect before IIRIRA), are exempted from this annual limit.

These exceptions to the 4,000-person limit having been made, it is expected that that limit should accommodate the remaining annual flow of successful suspension and cancellation applications. Should that projection prove erroneous, however, nothing in this Act is intended to prevent the Attorney General and those adjudicating suspension or cancellation applications on her behalf from pursuing the course that she has been following to this time of entering provisional grants of suspension or cancellation of deportation but postponing a final decision on the application until a slot becomes available. In no case is it Congress's intent that an otherwise meritorious application should be finally denied, and the applicant deported or removed, because the 4,000-person limit has been reached.

Mr. BIDEN. Mr. President, I am pleased to support this legislation. Included within this appropriations bill is historic legislation, produced on a bipartisan basis in the Foreign Relations Committee, regarding the institutional structure of, and funding for,

American foreign policy. This important legislation to reorganize the foreign policy agencies of the U.S. Government and authorize the payment of U.S. arrearages to the United Nations is similar to a bill approved by the Senate last June by a vote of 90-5. Unfortunately, the bill which the Senate overwhelmingly approved has been bogged down in conference with the other body over an issue which has no relevance to this bill.

I am therefore grateful to the Chairman and Ranking Member of the Appropriations Committee, Senator STEVENS and Senator BYRD, for agreeing to include provisions of our legislation in this bill.

I can assure my colleagues that the decision to include the authorization bill in an appropriations bill was not taken lightly. The Chairman of the Foreign Relations Committee, Senator HELMS, and I sought to do so after careful consultation with the Senate leadership. But because two major elements of this bill are so critical to American foreign policy, the Chairman and I believed that we could not afford to delay this bill until next year. I hope my colleagues will agree.

Specifically, the bill addresses two important issues which were the focus of much heated debate in the last Congress. First, the bill provides for the payment of U.S. back dues to the United Nations, contingent on specific reforms by that body. Second, the bill establishes a framework for the reorganization of the U.S. foreign policy agencies which is consistent with the plan announced by the President last April.

Importantly, the bill also contains sufficient funds to restore our diplomatic readiness, which has been severely hampered in recent years by deep reductions in the foreign affairs budget. The funding levels in the bill largely mirror the Fiscal 1998 budget request submitted by the Clinton administration. The wide support in this Congress for providing increased funding for foreign affairs is an important achievement, and reverses a troubling trend of the past few years.

Although the cold war has ended, the need for American leadership in world affairs has not. Our diplomats often represent the front line of our national defense; with the downsizing of the U.S. military presence overseas, the maintenance of a robust and effective diplomatic capability has become all the more important. Despite the reduction in our military presence abroad, the increased importance of "diplomatic readiness" to our Nation's security has not been reflected in the Federal budget.

The increase in foreign affairs funding contained in this bill could not have come too soon. According to a report prepared at my request by the Congressional Research Service earlier

this year, foreign policy spending is now at its lowest level in 20 years. Stated in fiscal 1998 dollars, the budget in fiscal 1997 was \$18.77 billion, which is 25 percent below the annual average of \$25 billion over the past two decades, and 30 percent below the level of 10 years ago, near the end of the Reagan administration. In fiscal 1997, such funding was just 1.1 percent of the Federal budget—the lowest level in the past 20 years and about one-third below the historical average.

I should remind my colleagues that the bill is truly a bipartisan product. It began with negotiations involving the Foreign Relations Committee and the Clinton administration early in the year. The Senate subsequently passed that bill overwhelmingly in June, by a vote of 90-5. Since that time, several changes have been made as a result of the conference deliberations with our House counterparts and negotiations with the Clinton administration. These were also undertaken in a spirit of bipartisanship. Because of these changes, I am confident that the bill will be acceptable to the President.

Enactment of this bill will mark another important milestone in reestablishing a bipartisan consensus on foreign policy. Like our predecessors five decades ago, we stand at an important moment in history.

After the Second World War, a bipartisan and farsighted group of senators, led by Chairmen of the Foreign Relations Committee such as Thomas Connally and Arthur Vandenberg, worked with the Truman administration to construct a post-war order. The institutions created at that time—the United Nations, the World Bank, the General Agreement on Tariffs and Trade, the North Atlantic Treaty Organization—are still with us today, but the task of modernizing these institutions to make them relevant to our times is just beginning.

For example, the Clinton administration and the Senate are cooperating on the first significant expansion of NATO—an expansion to the east which will encompass three former adversaries in Central Europe. The Foreign Relations Committee, under the leadership of Chairman HELMS, has initiated a series of hearings on the proposed enlargement of NATO, setting the stage for what I hope will be successful amendment to the Washington Treaty next spring. Similarly, this legislation now before us calls for significant reforms of the United Nations, an important instrument in American foreign policy which has become crippled both by growing U.S. arrearages and an unwillingness within that body to reform. Enactment of this legislation will be an important step forward in resolving both those problems.

Just as we are trying to revise and reenergize international institutions, we must reorganize our own foreign

policy institutions. Two years ago, the Chairman of the Foreign Relations Committee put forward a far-reaching plan to consolidate our major foreign affairs agencies—the Arms Control and Disarmament Agency (ACDA), the United States Information Agency (USIA), and the Agency for International Development—within the Department of State. In the context of an election cycle, it was perhaps inevitable that the Congress and the President would not come to agreement on it.

But continued stalemate was not inevitable. With the onset of a new presidential term and the appointment of a new Secretary of State, a window of opportunity to revisit the issue was opened. The Chairman, to his credit, took advantage of this window by urging the new Secretary of State, Madeleine Albright, to take a second look at the reorganization issue. And, to her credit, the Secretary did so; the result was the reorganization plan announced by the President in April. Under the proposal, two agencies—ACDA and USIA—will be merged into the State Department. The Agency for International Development will remain an independent agency, but it will be placed under the direct authority of the Secretary of State.

The legislation now before the Senate closely reflects the President's proposal. The Arms Control and Disarmament Agency will be merged into the State Department no later than October 1, 1998, and the U.S. Information Agency will be merged no later than October 1, 1999. As with the President's plan, the Agency for International Development will remain a separate agency, but it will be placed under the direct authority of the Secretary of State. And, consistent with the President's proposal to seek improved coordination between the regional bureaus in State and AID, the Secretary of State will have the authority to provide overall coordination of assistance policy.

The bill puts flesh on the bones of the President's plan with regard to international broadcasting. The President's plan was virtually silent on this question, stating only that the "distinctiveness and editorial integrity of the Voice of America and the broadcasting agencies would be preserved." This bill upholds and protects that principle by maintaining the existing government structure established by Congress in 1994 in consolidating all U.S. government-sponsored broadcasting—the Voice of America, Radio and TV Marti, Radio Free Europe/Radio Liberty, Radio Free Asia, and Worldnet TV—under the supervision of one oversight board known as the Broadcasting Board of Governors. Importantly, however, the Board and the broadcasters below them will not be merged into the State Department, where their journalistic integrity would be greatly at risk.

With regard to the United Nations provision, the bill provides \$926 million in arrearage payments to the United Nations over a period of 3 years contingent upon the U.N. achieving specific reforms. This will allow us to pay all U.S. arrears to the U.N. regular budget, all arrears to the peacekeeping budget, nearly all arrears to the U.N. specialized agencies, and all arrears to other international organizations.

It is difficult to exaggerate the significance of this achievement. We are finally in a position to lay to rest the perennial dispute over our unpaid dues that has severely complicated relations between the United Nations and the United States. This bill would give our diplomats the leverage they need to push through meaningful reforms that promise to make the U.N. a more capable institution.

Two important changes were made to the legislation that cleared the Senate last June. First, the bill now allows the crediting of \$107 million owed to the U.S. by the U.N. against our arrears. Second, it gives the administration added flexibility by allowing the Secretary of State to waive two conditions. The waiver will not apply to the reduction of assessment rates or the establishment of inspectors-general in the specialized agencies. But report language will make a clear commitment that Congress would, if necessary, consider on an expedited basis a waiver on the condition for a 20 percent assessment rate for the U.N. regular budget.

Of course, not everyone is happy with the agreements the Chairman, Senator HELMS, and I worked out. Some would have preferred to see no conditions at all attached to the payment of our debts. Others are unhappy that the United States is paying any arrears whatsoever.

I think it is fair to say that the Chairman and I approached this issue from two very different points of view. I make no excuses for my support of the United Nations. I believe that the U.N. is an indispensable arrow in our foreign policy quiver. The Chairman, I think it is fair to say, has been skeptical of the role of the United Nations.

But despite our differing outlooks, over the course of nearly 8 months of negotiation, dialogue, and old-fashioned bargaining, we each gave something and got something to return. The Chairman got several important conditions attached to the payment of arrears. Among other items, these include important managerial reforms, assurances that U.S. sovereignty will be protected, and a lowering of our assessment rate from 25 percent to 20 percent of the U.N. regular budget.

For me, it is important that this bill sends a strong signal of bipartisan support for putting our relationship with the United Nations back on track. Restoring our relationship with the

United Nations is not a favor to anyone else—it is in our interest.

The United Nations allows us to leverage our resources with other countries in the pursuit of common interests, be it eradicating disease, mitigating hunger, caring for refugees, or addressing common environmental problems. And as the unfolding crisis with Iraq demonstrates, the United Nations can be a useful instrument in our diplomacy. The United States has played a leading role in the United Nations since its founding, and I believe that this legislation will secure that leadership.

While the purists on either side may not be happy with the agreement before us, I believe that we have produced a responsible piece of legislation that warrants the support of our colleagues.

In sum, the bill before the Senate, the Foreign Affairs Reform and Restructuring Act, is a significant achievement. I want to pay tribute to the Chairman for his continued good faith and cooperation throughout this process. I want to thank the President, the National Security Adviser, and the Secretary of State, for their support and assistance during the negotiations. I also want to thank our colleagues in the other body, particularly the ranking member of the International Relations Committee, LEE HAMILTON, who played an important role in pushing for changes to make this proposal more acceptable to the administration.

I believe we have produced a good compromise that a large majority will be able to support. I urge its adoption.

#### AMENDMENTS TO THE PRISON LITIGATION REFORM ACT

Mr. ABRAHAM. Mr. President, the Commerce-State-Justice portion of this bill contains a few technical and clarifying changes to the Prison Litigation Reform Act enacted last year. The Majority Whip of the House of Representatives and I have been working together on this language, and I believe this statement reflects both of our views.

The Prison Litigation Reform Act was specifically designed to protect the Tenth Amendment powers of the sovereign states, to enforce the Guarantee Clause, and to preserve and strengthen key structural elements of the United States Constitution such as separation of powers, judicial review, and federalism. In passing the Act Congress made clear that it intended that the courts enforcing the Act scrupulously ensure that these goals be accomplished. In order to avoid any possibility of misinterpretation, we are seeking through the language contained in these amendments to clarify that stated intent.

Subsection (a)(3)(F) establishes that a state or local official, including individual state legislators, or a unit of government, is entitled to intervene as of right in a district or appellate court

to challenge prisoner release orders or seek their termination. No separate time limits are included because the sponsors think it clear that a court should implement the intervention provisions in a manner that gives them their full effect by ruling in timely fashion on such motions.

Subsection (b)(3) corrects the confusing use of the word "or" to describe the limited circumstances when a court may continue prospective relief in prison conditions litigation. The amendment makes clear that a constitutional violation must be "current and ongoing". Both requirements are necessary to ensure that court orders continue only when necessary to remedy a presently occurring constitutional violation. These dual requirements thus ensure that court orders do not remain in place on the basis of a claim that a current prison condition that does not violate prisoners' Federal rights nevertheless requires a court decree to address it because the condition is somehow traceable to a prior policy that did violate Federal rights. Likewise, the clarification insures that prisoners cannot keep intrusive court orders in place based upon the theory that the government officials are "poised" to resume allegedly unlawful conduct. Congress does not presume that government officials who have been advised that a particular practice is unlawful will automatically return to an unlawful practice unless a court order remains in effect. If an unlawful practice resumes or if a prisoner is in imminent danger of a constitutional violation, the prisoner has prompt and complete remedies through a new action filed in a state or federal court and preliminary injunctive relief.

Finally, these amendments make some changes to the automatic stay provisions in the Act. Under the Act, courts are supposed to rule promptly on motions to terminate these longstanding decrees. In order to discourage delay on such motions, the Act provided that, if a court did not render a decision on the motion within 30 days, the decree was automatically stayed until the court had rendered a final decision. Unfortunately, many district courts are not ruling promptly, are keeping the decrees in effect, and are then seeking violations that justify doing so.

Courts have also been avoiding the automatic stay by saying that it is impossible to comply with because it sets up an impossible timetable and that it is therefore unconstitutional. The Department of Justice meanwhile has contended that the stay is not really automatic at all, although no court has accepted that view.

The argument that the court is being forced to rule on anything on an unrealistic timetable is incorrect because the automatic stay imposes no requirement that they rule. It only provides

that if they do not rule there is no order in effect until they do so. Nevertheless, giving the court the authority to extend the time an additional 60 days should eliminate that basis for challenge. The amendments also clarify that the stay is in fact is automatic by expressly modeling it on the bankruptcy automatic stay, and they state explicitly that any order blocking the automatic stay is appealable, thereby ensuring review of the district court's action. Finally, they make clear that mandamus is available to compel a ruling if a court is simply failing to act on one of these motions.

Mrs. BOXER. Mr. President, I congratulate the chairman and ranking member of the Appropriations Committee for bringing this bill to the Senate. Their leadership will help break the logjam on the remaining 1998 appropriations bills, and I commend them for pushing forward.

While I support most provisions in this multi-title legislation, I must take this opportunity to register my strong disapproval of the provisions in the Foreign Operations title relating to International Family Planning.

The bill provides that for the next two years, it will include the restrictive Mexico City policy, which will prohibit U.S. international family planning assistance from going to any foreign private organization involved in certain abortion-related activities—even though these activities are carried out with non-U.S. funds. This language will cripple the work of many of the private organizations doing the most effective work in family planning and maternal and child health. For example, organizations that seek to advise their governments on how to make abortions safer for women, in countries where abortion is legal, would be restricted from doing so if they receive U.S. money for family planning services. This restriction will only result in more dangerous health conditions for women.

The Mexico City provision does at least include a waiver provision, allowing the President to disregard the policy. However, if he chooses to exercise the waiver, the family planning account will be penalized by being reduced.

Unfortunately, this language is a compromise with those who would terminate international family planning altogether, and thus it is probably the best we can do. I commend the Senator from Vermont, Senator LEAHY, for working so hard to get the best language possible at this time. However, Mr. President, this compromise must go no further. Any movement beyond the language we have included in the Senate bill will, in my view, seriously jeopardizes passage of the legislation.

Mr. STEVENS. Mr. President, we are waiting for the Senator from Vermont. While I am waiting let me state for the

record that the omnibus bill that is here has some additions that were not in the conference reports of the various bills.

We have included the Small Business Administration reauthorization bill, a portion of the State Department authorization bill which deals with reorganization, and with authorization for the United Nations arrearages. We have included the Highway Safety and Transit Contract Authority Extensions, due to the expiration of ISTEA. We have technical corrections to the Department of Defense Authorization Act with regard to land transfer in New Mexico. And we have the agreement that deals with the census provision that was in the State-Justice-Commerce bills that passed the Senate, but it has been altered substantially. I should call attention to that.

Let me ask the Chair, what time now remains on this bill?

The PRESIDING OFFICER. There is 15 minutes for the Senator from West Virginia [Mr. BYRD]; there is 15 minutes for the Senator from Kentucky [Mr. MCCONNELL].

Mr. STEVENS. I am authorized to yield back the time of the Senator from Kentucky and the Senator from West Virginia. I do so.

The PRESIDING OFFICER. There remains 15 minutes for the Senator from Vermont [Mr. LEAHY].

Mr. FORD. Mr. President, may I advise my good friend, the chairman of the Appropriations Committee, that Senator LEAHY has been on the floor. He has been detained just for a few minutes. He is on his way. I don't think he will take his entire 15 minutes, but I would have to hold those minutes for him, if I could.

Mr. STEVENS. Does the Senator from Florida seek to speak?

Mr. GRAHAM. Mr. President, the procedure, which I discussed with the majority leader, was that as soon as we completed action on the District of Columbia appropriations bill, I would be recognized for purposes of offering legislation relative to Haitian immigration. I wonder if it would be an appropriate use of this time, and I so ask unanimous consent, while awaiting Senator LEAHY's arrival, to offer that legislation at this time.

Mr. STEVENS. Mr. President, with the understanding that the Senator from Florida will yield to the Senator from Vermont, in order to finish this bill, when the Senator from Vermont arrives, I suggest the Chair recognize the Senator from Florida.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. I ask unanimous consent that the business currently pending before the Senate be set aside temporarily for purposes of introducing legislation with the understanding that at such time as the Senator from

Vermont arrives, the Senator from Vermont will have the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM. I thank the Chair.

(The remarks of Mr. GRAHAM pertaining to the introduction of S. 1504 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I compliment the distinguished chairman of the Appropriations Committee, Mr. STEVENS; the distinguished ranking member, Mr. BYRD; and the distinguished chairman of the Subcommittee on Foreign Operations, Mr. MCCONNELL; and all those who worked on it. This has not been an easy time getting this bill through, partly because of holdups in the other body, holdups that tended to disregard, frankly, the democratic process and how we voted here and voted over there. Be that as it may, we have done the best with a difficult situation. I believe this bill should be passed.

INTERNATIONAL FAMILY PLANNING FUNDING

Mr. LEAHY. Mr. President, I want to speak on the issue of funding for international family planning, which is contained in this omnibus bill.

The agreement on the Mexico City policy that was approved by the Appropriations Committee yesterday, is the result of weeks of tortuous negotiations. It would establish the Mexico City policy in statute for 2 years. That is a major concession to the House that is opposed by the administration. It would permit him to waive the Mexico City restrictions.

But there is a penalty if he does. Funding for family planning would be frozen at last year's level, which is the House level and \$50 million below the Senate level.

Even with the waiver for the President, I believe that if the Mexico City issue were voted on separately in the Senate it would be defeated. We are including it as part of this larger package in an effort to pass the Foreign Operations conference report.

It is interesting to me that despite the fact that 5 months ago the Appropriations Committee reported and the Senate voted for \$435 million for international family planning programs with no Mexico City restrictions, despite the fact that the Senate voted the same way in February, and the same way last year, despite the fact that the House and Senate Foreign Operations conferees would have overwhelmingly supported the Senate position if the House leadership had allowed them to vote on it, Members of the House are already saying that they will not accept it because it permits the President to waive the Mexico City restrictions.

Under their approach, the United States could not fund organizations

that support laws to make abortion safer in countries where abortion is legal. And they expect the President, and the Secretary of State who is seen around the world as a champion for women's rights, to accept the Mexico City policy. It completely ignores reality. If they are unwilling to budge we are doomed to failure, because their approach would be vetoed. In fact, I cannot even say that the Mexico City policy with a waiver for the President, as we have done, would not be vetoed.

Mr. President, I was perfectly willing to have a vote in the conference committee, and I am more than willing to vote on this today or next year.

But the House has been unwilling to do that. They prefer to try to thwart the process in other ways.

They are all for democracy in Russia. They are outraged when the Haitian Parliament does not follow the rules. But if they do not have the votes here, they break their commitments, manipulate the parliamentary rules to their advantage, and obstruct the democratic process.

Six years ago we had the votes to defeat the Mexico City policy, which was the policy in effect during the previous administration, just as we have the votes in the Senate today. But we knew our position would be vetoed, and that we could not override a veto.

So rather than bring the Congress to a standstill, we accepted that we could not change the President's policy and we got the Foreign Operations Conference Report passed and signed into law.

Today the tables are turned. The supporters of Mexico City do not have the votes to get it through the Congress, and even if they did they could not override a veto.

But rather than accept that, rather than concede that they cannot win a fair fight, they prevented the conference committee from doing its job, they refused an offer to vote when they knew they would lose, and they tried to force their position through so that we would either have to shut down the government again or swallow their position without an opportunity to amend it.

That is exactly what they did two years ago. The result was that funds for family planning were cut sharply. They tried it again last week, when they sent over the Mexico City policy and tried to jam it through with only Republican names on the Conference Report. They were blocked at the last minute by members of their own party.

Mr. President, the irony of this is that not one dime of our money can be spent on abortion or to lobby for abortion. That has been the law for years.

This issue is about what private organizations, like Johns Hopkins University, like Georgetown University, like the University of North Carolina, like the International Planned Parent-

hood Federation, do with their own money.

It is about whether we have a policy that says it is okay to give money to foreign governments in countries where abortion is legal, but it is not okay to give money to private organizations that work in those same countries. It is totally illogical and discriminatory.

The compromise agreement contained in this omnibus bill will make no one happy. I do not like it because it puts into law the Mexico City policy, which I strongly oppose even for two years. Others on this side feel the same way. They see that this is a major concession to the pro-Mexico City faction in the House, and they are right. The administration does not like it either.

It also means that funding for family planning remains frozen at last year's level of \$385 million. That is a \$180 million cut from the 1995 level. I think that is a travesty, when so many people around the world want family planning services and cannot get them. Not abortion. Family planning, so they don't have to resort to abortion.

That is the choice. In Russia, where women had on average 7 abortions in their lifetimes because they had no access to family planning, that number has fallen sharply since we started a family planning program there. It is common sense.

I would like to see twice this amount of money going for family planning, but we have agreed to this level, which is a \$50 million cut from the amount that passed the Senate in July, as part of this agreement to try to finish these appropriations bills.

Mr. President, the House can reject this approach. Perhaps they do not believe the President when he says he will veto the Mexico City policy. I do not know how many times he has to say it.

It was not easy to get here. When there is a Republican in the White House, or the votes change in the Senate, I am sure the other side will want to vote because they will be confident of victory. But that is not where we are today.

I hope the House can improve on this approach. I would be overjoyed if they can find a way to keep the Mexico City policy out of the law entirely, without including the kind of harmful restrictions on the disbursement of family planning funds that were adopted last year. If the supporters of the Mexico City policy want it so badly, why not vote on it?

As I have said time and again, I would prefer to handle this by voting on Mexico City next year. We could agree that if it is defeated in the Senate, the funds would be disbursed on a quarterly basis through the 1998 fiscal year. I know that approach has bipartisan support in the House. In fact, the Chairman of the House Appropriations

Committee has suggested that approach. Whether it could win a majority I do not know, but I encourage the House to pursue it.

Mrs. BOXER. Will the Senator yield for purposes of a question?

Mr. LEAHY. Of course, I yield to my friend from California.

Mrs. BOXER. I say to Chairman STEVENS and I know the ranking member, Senator BYRD, and to the Senator from Vermont, thank you for working so hard on this international family planning issue. The Senator is so correct when he says that the Senate has spoken, the House has spoken, and suddenly we find ourselves faced with a situation where the funds for family planning on an international scale will be withheld.

I say to my friend, for the RECORD, because I think it is very important and a lot of people are counting on us, can our friend from Vermont assure us that this agreement that he has garnered working with Senator MCCONNELL is, in fact, the best he thinks he can get at this time?

Mr. LEAHY. It is, but it is not what I would want. I would prefer to be far closer to what the Senate has voted on time and time and time again.

I understand the realities of the situation, though, and this is where we are. The irony is that those who are holding up family planning money, claiming they are doing it because of their opposition to abortion, are assuring that there will be more abortions in the countries we send the family planning money to.

The family planning money, in so many of these countries, has provided a strong alternative to abortion, because many countries use abortion as a method of birth control. Our family planning money would cut down abortions. It has been proven.

For the life of me, I cannot understand this topsy-turvy, "Alice in Wonderland," view of cutting family planning money and saying we are trying to stop abortions, because it does nothing of the kind. In fact, when people have access to family planning, the abortions go down.

Mrs. BOXER. Thank you.

Mr. LEAHY. Mr. President, I see the distinguished chairman on the floor. If he does not need further time on this, I understand the Senator from Kentucky has yielded back his time. I, therefore, yield back time on this side.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. As I understand it then, the balance of the time is the time that remains to me, is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. I want to thank the Senate for its consideration of the desire of the Appropriations Committee

to finish this work for this Congress. We had hoped that we would pass 13 separate appropriations bills. That has not been possible. But we have taken the opportunity to put two of the bills that have not been finished on this bill—that managed by Senator FAIRCLOTH and Senator BOXER, with the hope that we could resolve the differences with the House. It will go to the House now as an amendment to the House bill. It is an omnibus appropriations bill now. And the House will work its will on it. I am hopeful that it will decide to send the bill to the President.

In any event, it is my understanding we will soon be presented with a continuing resolution. The continuing resolution in effect now would expire at midnight tonight. The one I expect to be received by the Senate will expire tomorrow night. So we are hopeful that we will be able to resolve the differences between the House and the Senate by tomorrow night with regard to the matters under this bill.

Again, I thank everyone for their consideration of our position. And if there is nothing further to come before the Senate on this bill, I yield back the balance of the time. It is my understanding that would yield back all time on this bill. Is that correct, Mr. President?

**THE PRESIDING OFFICER.** The Senator is correct. It would yield back all time.

**Mr. STEVENS.** Is there anything further we need to do to see it to that the time agreement is carried out?

**THE PRESIDING OFFICER.** No. Under the previous order, the pending amendment is agreed to.

The amendment (No. 1621) was agreed to.

**THE PRESIDING OFFICER.** The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

**THE PRESIDING OFFICER.** The bill having been read the third time, the question is, Shall the bill pass?

The bill (H.R. 2607), as amended, was passed.

**THE PRESIDING OFFICER.** Under the previous order, the title is amended.

The title was amended so as to read:

An Act making omnibus consolidated appropriations for the fiscal year ending September 30, 1998, and for other purposes.

**THE PRESIDING OFFICER.** Under the previous order, the Senate insists on its amendment, requests a conference with the House, and the Chair appoints the following conferees.

The Presiding Officer (Mr. ENZI) appointed Mr. STEVENS, Mr. SPECTER, Mr. DOMENICI, Mr. MCCONNELL, Mr. SHELBY, Mr. GREGG, Mr. BENNETT, Mr. CAMPBELL, Mr. FAIRCLOTH, Mrs. HUTCHISON,

Mr. COCHRAN, Mr. BYRD, Mr. INOUE, Mr. HOLLINGS, Mr. LEAHY, Mr. BUMPERS, Mr. LAUTENBERG, Mr. HARKIN, Ms. MIKULSKI, Mrs. MURRAY, and Mrs. BOXER conferees on the part of the Senate.

#### DISTRICT OF COLUMBIA STUDENT OPPORTUNITY SCHOLARSHIP ACT OF 1997

**THE PRESIDING OFFICER.** Under the previous order, the clerk will report S. 1502.

The assistant legislative clerk read as follows:

A bill (S. 1502) entitled "District of Columbia Student Opportunity Scholarship Act of 1997."

**THE PRESIDING OFFICER.** Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

**Mr. KENNEDY.** Mr. President, I strongly oppose the D.C. voucher bill because it is unacceptable and unconstitutional.

We all want to help the children of the District of Columbia get a good education. But this voucher provision is not the way to do it. Public funds should be used for public schools, not to pay for a small number of students to attend private and religious schools.

Earlier this week, the House of Representatives soundly defeated a similar bill. It was Congress' first vote on a free-standing private school voucher bill. It's clear that private school vouchers are not the panacea that voucher proponents would like them to be. Americans do not want vouchers—they want to improve public education, not undermine it.

President Clinton is a strong leader on education. In fact, President Clinton is the education President. He is leading the battle for education reform. The country is proud of his leadership, and our Republican colleagues don't know what to do.

They keep shooting themselves in the foot in their repeated attempts to devise a Republican alternative that will satisfy their right wing hostility to public education and still have the support of the American people. It can't be done. First they tried to abolish the U.S. Department of Education. Then they tried to make deep cuts in funds for public schools. They even shut down the Government when they couldn't get their way. Now they are trying the same trick through the back door, using public funds to subsidize private schools. It won't work, and they shouldn't try.

It is clear that President Clinton will veto the D.C. voucher bill, and he is right to veto it.

The current debate involves schools in the District of Columbia. But the use of Federal funds for private schools is a national issue that Congress has

addressed and rejected many times before. And so have many States.

Now, voucher proponents are attempting to make the D.C. public schools a guinea pig for a scheme that voters in D.C. have soundly rejected, and so have voters across the country.

Recent voucher proposals in Washington, Colorado, and California lost by over 2-to-1 margins. In 1981, D.C. voters defeated a voucher initiative by a ratio of 8 to 1, and the concept has never been brought up on the ballot again because it has so little support. Clearly, Congress should not impose on the District of Columbia what the people of D.C. and voters across the country reject.

Representative ELEANOR HOLMES NORTON, and D.C. parents, ministers, and other local leaders have made it clear that they do not want vouchers in the District of Columbia. Members of Congress who can't get to first base with this issue in their own States should not turn around and impose it on the people of the District.

Vouchers would undermine D.C. school reforms already underway. Last year, Congress created a Control Board and all but eliminated the locally elected school board. This bill would create yet another bureaucracy in the form of a federally appointed corporation to run the voucher program. Six of the seven corporation members would be nominated by the Federal Government, and those nominations are controlled by the Republican Congress. Only one representative of D.C. would serve on the corporation. This is precisely the kind of Federal takeover of a local school system that Republican Senators oppose for any other community in America.

Public funds should not go to private schools when District of Columbia public schools have urgent needs of their own. Roof repairs still need to be made; 65 percent of the schools have faulty plumbing; 41 percent of the schools don't have enough power outlets and electrical wiring to accommodate computers and other needed technology; 66 percent of the schools have inadequate heating, ventilation, and air conditioning. Funding these repairs should be our top priority, not conducting a foolish ideological experiment on school vouchers.

Another serious problem with private school vouchers is the exclusionary policies of private schools. Scarce Federal dollars should not go to schools that can exclude children. There is no requirement in the bill that schools receiving vouchers must accept minority students, or students with limited English proficiency, or students with disabilities, or homeless students, or students with discipline problems.

Public schools are open to all children. Public schools don't have the luxury of closing their doors to students who pose difficult challenges.

Voucher proponents argue that vouchers increase choice for parents. But choice for parents is a mirage. Private schools apply different rules than public schools. Unlike public schools, which must accept all children, private schools can decide whether to accept a child or not. The real choice goes to the schools, not the parents. The better the private school, the more selective it is, and the more students are turned away. In Cleveland, nearly half of the public school students who received vouchers could not find a private school that would accept them.

Vouchers will not help the overwhelming majority of children who need help. The current voucher scheme will, at most, enable 2,000 D.C. children to attend private schools, out of the 78,000 children who attend D.C. public schools. This proposal would provide vouchers for 3 percent of D.C. children—and do nothing for the other 97 percent. This is no way to spend Federal dollars. We should invest in strategies that help all children, not just a few.

As I have said before, instead of supporting local efforts to revitalize the schools, voucher proponents are attempting to make the D.C. public schools a guinea pig for an ideological experiment in education that voters in D.C. have soundly rejected, and that voters across the country have soundly rejected too. Our Republican colleagues have clearly been unable to generate any significant support for vouchers in their own States. It is a travesty of responsible action for them to attempt to foist their discredited idea on the long-suffering people and long-suffering public schools of the District of Columbia. If vouchers are a bad idea for the public schools in all 50 States, they are a bad idea for the public schools of the District of Columbia too.

Many of us in Congress favor D.C. home rule. Many of us in Congress believe that the people of the District of Columbia should be entitled to have voting representation in the Senate and the House, like the people in every State. It is an embarrassment to our democracy that the most powerful democracy on Earth denies the most basic right of any democracy—the right to vote—to the citizens of the Nation's Capital.

D.C. is not a test tube for misguided Republican ideological experiments on education. Above all, D.C. is not a slave plantation. Republicans in Congress should stop acting like plantation masters, and start treating the people of D.C. with the respect they deserve.

General Becton, local leaders, and D.C. parents are working hard to improve all D.C. public schools for all children. Congress should give them its support, not undermine them.

Another serious objection to this voucher scheme is its unconstitution-

ality. The vast majority of private schools that charge tuition less than the \$3,200 available for a voucher are religious schools. Providing vouchers to religious schools violates the establishment clause of the first amendment of the U.S. Constitution. It's a Federal subsidy for sectarian schools. In many States, voucher schemes would violate the State constitution, too.

Last January, a Wisconsin lower court held that the expansion of the Milwaukee voucher program to include religious schools was unconstitutional and violated the Wisconsin Constitution. The court stated that "We do not object to the existence of parochial schools or that they attempt to spread their beliefs through their schools. They just cannot do it with State tax dollars."

Last August, the Wisconsin State Court of Appeals affirmed that decision, holding that the expansion of the State voucher program to include religious schools was unconstitutional under the Wisconsin Constitution.

Last May, an Ohio appellate court reversed a trial court's decision to allow public money to be paid to religious schools. The appeals court held that the voucher program violated the principle of separation of church and state under both the United States Constitution and the Ohio Constitution. The court ruled that the voucher program "steers aid to sectarian schools, resulting in what amounts to a direct government subsidy."

Last June, a Vermont State Superior Court held that the use of vouchers to pay tuition at private religious schools violates both the U.S. Constitution and the Vermont Constitution.

As these cases demonstrate, the courts are clear that vouchers for religious schools are unconstitutional, and Congress should abide by their rulings.

Last month, in a keynote address to the Conference of the Council of Great City Schools, Coretta Scott King said,

I don't have a lot of sympathy with those who would further diminish the resources available to urban public schools with a voucher system . . . The debate over vouchers takes the focus away from where it really needs to be—on how we can increase funding and resources, so that every public school can provide the best possible education for all students.

Coretta King is right. Instead of subsidizing private schools, we need to support ways to improve and reform the public schools—not in a few schools, but in all schools; not for a few students, but for all students.

Subsidies for a few children at the expense of the many divides communities. The Federal Government should help bring communities together, not divide them. We should make investments that help all children in all neighborhood schools to get a good, safe education. I oppose the D.C. voucher bill as unwise, unacceptable, and unconstitutional.

Private school vouchers are not the answer to the problems facing the Nation's schools. It is a mistake and a misuse of tax dollars to send children to private schools at public expense.

#### DC SCHOOL VOUCHER BILL

Ms. MOSELEY-BRAUN. Mr. President, I strongly oppose S. 1502, a bill to take funds away from public schoolchildren in order to subsidize private schools.

Supporters of this legislation claim that the \$7 million they propose to spend on private schools does not divert funds from public schoolchildren. The truth, however, is that in the zero-sum budget, any funds spent on vouchers must be drawn from other education funds. That means less resources for public schoolchildren.

Seven million dollars could make a real difference in the DC public schools. We could fully fund after-school programs at every DC school. We could buy 368 new boilers for the DC schools. We could rewire the 65 schools that don't have electrical wiring to accommodate computers and multimedia equipment. We could upgrade the plumbing in the 102 schools with substandard facilities. With just \$1 million, we could buy 66,000 new hardcover books for DC's school libraries. There are real improvements we could make to the DC public school system with \$7 million. Instead, this bill proposes to siphon those funds away from the public schoolchildren.

Some of my colleagues suggest that, were it not for management problems, the DC schools would not be in the condition they are now in. How a diversion of \$7 million from the public schools to private schools will solve that problem is beyond me. I have a better solution: good management. Paul Vallas has turned around the Chicago schools. It would not surprise me if some day the Chicago Public Schools were competing on the same level as the public schools that comprise the first in the World Consortium in north suburban Chicago. Students in those schools compete with students at the finest schools in the world. The DC schools have new management, and I have every confidence that General Becton will be able to do for the DC schools what Paul Vallas is doing for the Chicago schools.

Some of my colleagues suggest that school vouchers will help improve the public schools by increasing competition—by creating, in effect, a marketplace for education. There is a problem with that proposal. By definition, markets have winners and losers, and our country cannot afford any losers in a game of educational roulette.

Supporters of school vouchers state that this is not like a game of roulette, that research proves that voucher programs have positive effects on student

achievement. The facts, however, do not speak so clearly to this issue. The data is mixed. Some studies show improvement. Some studies show declining achievement. Some studies show no difference at all between the students in public schools and those placed in private schools. We do know that programs in other countries have not succeeded. In France, Britain, the Netherlands, and Chile, voucher programs actually widened the achievement gap, instead of narrowing it.

That is the real problem. Vouchers do not fix public schools. Vouchers do not solve problems. Vouchers raise false hopes in parents who desire better schools for their children. Vouchers are not answers to the real problems that we must address in our public schools.

Mr. President, for the last three years, proponents of this bill in the Senate have failed to pass this bad idea. Today, however, in order to expedite the business of the Senate, I, and my colleagues who oppose this bill, are willing to let the Senate pass this measure, because President Clinton has wisely pledged to veto it. Our willingness to let this legislation pass the Senate does not represent any weakening of our belief that it is fundamentally flawed, that it represents an abandonment of public education, and a pessimistic capitulation to a winnable challenge—the improvement of our public schools so they may serve all our children into the 21st century.

We have agreed to let this legislation clear the Senate, in these last hours of the first session of the 105th Congress, as part of a much larger arrangement to consider a number of important issues, including: measures to fund the activities of the State Department, the Commerce Department, and the Justice Department; measures to fund the District of Columbia and our foreign aid operations; a stop-gap measure to fund our highway and mass transit programs; and legislation granting the President the so-called "fast track" authority to negotiate trade agreements. It is in this context, and with the advance knowledge that the President will veto this DC voucher bill, that we have agreed to let the Senate proceed with this bill.

Mr. President, I hope that next year we will focus on real solutions to the problems facing our public schools. According to the U.S. General Accounting Office, 14 million children attend schools that are literally crumbling down around them, and we have let our public schools fall \$112 billion into physical disrepair. Our children cannot learn the skills they need to keep us competitive in this kind of environment. I know that we can do better for our children. We can fix our schools, and I look forward to working with my colleagues next year on legislation to form a partnership with State and local governments to rebuild and mod-

ernize our crumbling schools. I look forward to working with my colleagues next year to address the real needs of our Nation's 52 million public school-children.

Mr. HOLLINGS. Mr. President, today we are passing important legislation which I strongly oppose by voice vote. The normal Senate procedure would be to vote on such an important bill, and I do not like to see Senators avoid a recorded vote on a bill with such dire implications for public education. However, the President has committed to veto the full bill, and I am confident from repeated past votes that if we did not have this commitment, the Senate would block the bill. Also, without this commitment, I would be glad not only to force a vote, but also to discuss the bill at length.

In fact, there is a healthy sign that even supporters of the ill-advised idea of starting a taxpayer-funded private school voucher program are re-thinking their support. Five days ago, the House defeated a private school voucher plan. Thirty-five House Republicans voted against creation of a voucher program on the basis that the legislation did not include basic civil rights protections that also are absent in the bill before us.

The United States Catholic Conference opposed that bill. I quote here from their letter:

An additional reason why the USCC is unable to support H.R. 2746 is the "Not School Aid" provision in the new section 6405(a). . . . Section 6405(a) can readily be construed to negate the application of longstanding civil rights statutes, in particular, Title VI of the Civil Rights Act of 1964, Title X of the Education Amendments of 1972 and Section 504 of the Rehabilitation Act of 1973, that would normally apply to a scholarship program.

In other words, by saying that the Federal aid going to private schools under a voucher program is "not school aid" the bill proponents excuse them from full compliance with Federal protections that currently apply to public schools.

Mr. President, that is not just my interpretation or that of the Catholic Conference. That is the reading of proponents of the bill.

Specifically, Mr. Clint Bolick, who has a group named "Institute for Justice," has been agitating to start taxpayer funding for private school tuitions. Here is what Mr. Bolick said about the Catholic Conference and civil rights in a memo that leaked out last month:

Dick Komer and I met with representatives of the Catholic Conference, who urged that the bill contain the full panoply of federal civil rights regulations, including Title IX (gender) and disability provisions. We argued strongly against those regulations. We are pleased to report that the final bill contains only a general anti-discrimination requirement and expressly provides that schools are not "recipients of federal funds."

So Mr. Bolick "argued strongly" against civil rights for girls and dis-

abled children, but he is pleased to report that schools receiving vouchers would not be "recipients of Federal funds."

This is absurd. The Federal Government today spends about \$12 billion on elementary and secondary education. That is about \$250 per child in a public school. But the proponents of this bill want from the outset to give private schools \$3,200 per child in Federal funds. If we do that, just three voucher children would provide a private school with more Federal assistance than we provide to a whole public school classroom. If that is "Not School Aid," I don't know what is. There are a lot of public school classrooms that would like to have \$3,200 per child in Federal assistance, and they would not be crowing about how basic civil rights protections were rolled back.

I say this to criticize this proposed legislation, not the private schools. I believe that we have a duty as public servants to fund the public schools, and we have a duty to the private schools to leave them alone. I support private schools. About 9 out of 10 are religious, and I particularly support their freedom to stay that way without Federal intervention. Make no mistake. If we go down this road of putting \$3,200 per child of Federal taxpayers' money into private school classrooms, Federal regulation will follow and that will be a tragedy.

This is not conjecture, the Bush Administration studied it. In a report titled "Choice of Schools in Six Nations," here is what they found:

For those who believe strongly in religious schooling and fear that government influence will come with public funding, reason exists for their concern. Catholic or Protestant schools in each of the nations studied have increasingly been assimilated to the assumptions and guiding values of public schooling. This process does not even seem to be the result of deliberate efforts . . . but rather of the difficulty for a private school playing by public rules, to maintain its distance from the common assumptions and habits of the predominant system.

World Bank economist Estelle James did a similar survey and found that ". . . heavy controls invariably accompany subsidies, particularly over teacher salaries and qualifications, price, and other entrance criteria." She looked particularly closely at Australia, and found ". . . increasing regulation and centralization of decisions and the loss of private school autonomy . . ."

I raise all of these points to appeal to my colleagues on the other side of the aisle. I do not talk to hear myself talk, but to urge serious consideration. We have House colleagues reconsidering. We have the Catholic Conference urging civil rights protections. We have Bush Administration and World Bank studies indicating heavy regulation.

We have a proposal that clearly disadvantages public schools on the matter of Federal funding. Who will really be happy if we pass this?

Mr. President, we must finally remember our duty to public education. I go back to Horace Mann, the great champion of public schools. He said that

The idea of an educational system that was at once both universal, free and available to all the people, rich and poor alike, was revolutionary. This is the great thing about America. No other nation ever had such an institution. . . . The free public school system . . . has been in large measure the secret of America's success.

The proposal before us erodes public education. It disadvantages public schools in Federal funding and under Federal regulation. Instead, it offers more funds to private schools which should exist as an independent alternative, but which are not "universal, free" or "available to all the people." I urge my colleagues who have supported this private voucher idea to reconsider over the holidays, and I thank the President in advance for his veto.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1502

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; FINDINGS; PRECEDENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the "District of Columbia Student Opportunity Scholarship Act of 1997".

(b) **FINDINGS.**—Congress makes the following findings:

(1) Public education in the District of Columbia is in a crisis, as evidenced by the following:

(A) The District of Columbia schools have the lowest average of any school system in the Nation on the National Assessment of Education Progress.

(B) 72 percent of fourth graders in the District of Columbia tested below basic proficiency on the National Assessment of Education Progress in 1994.

(C) Since 1991, there has been a net decline in the reading skills of District of Columbia students as measured in scores on the standardized Comprehensive Test of Basic Skills.

(D) At least 40 percent of District of Columbia students drop out of or leave the school system before graduation.

(E) The National Education Goals Panel reported in 1996 that both students and teachers in District of Columbia schools are subjected to levels of violence that are twice the national average.

(F) Nearly two-thirds of District of Columbia teachers reported that violent student behavior is a serious impediment to teaching.

(G) Many of the District of Columbia's 152 schools are in a state of terrible disrepair, including leaking roofs, bitterly cold classrooms, and numerous fire code violations.

(2) Significant improvements in the education of educationally deprived children in the District of Columbia can be accomplished by—

(A) increasing educational opportunities for the children by expanding the range of educational choices that best meet the needs of the children;

(B) fostering diversity and competition among school programs for the children;

(C) providing the families of the children more of the educational choices already available to affluent families; and

(D) enhancing the overall quality of education in the District of Columbia by increasing parental involvement in the direction of the education of the children.

(3) The 350 private schools in the District of Columbia and the surrounding area offer a more safe and stable learning environment than many of the public schools.

(4) Costs are often much lower in private schools than corresponding costs in public schools.

(5) Not all children are alike and therefore there is no one school or program that fits the needs of all children.

(6) The formation of sound values and moral character is crucial to helping young people escape from lives of poverty, family break-up, drug abuse, crime, and school failure.

(7) In addition to offering knowledge and skills, education should contribute positively to the formation of the internal norms and values which are vital to a child's success in life and to the well-being of society.

(8) Schools should help to provide young people with a sound moral foundation which is consistent with the values of their parents. To find such a school, parents need a full range of choice to determine where their children can best be educated.

(c) **PRECEDENTS.**—The United States Supreme Court has determined that programs giving parents choice and increased input in their children's education, including the choice of a religious education, do not violate the Constitution. The Supreme Court has held that as long as the beneficiary decides where education funds will be spent on such individual's behalf, public funds can be used for education in a religious institution because the public entity has neither advanced nor hindered a particular religion and therefore has not violated the establishment clause of the first amendment to the Constitution. Supreme Court precedents include—

(1) *Wisconsin v. Yoder*, 406 U.S. 205 (1972); *Pierce v. Society of Sisters*, 268 U.S. 510 (1925); and *Meyer v. Nebraska*, 262 U.S. 390 (1923) which held that parents have the primary role in and are the primary decision makers in all areas regarding the education and upbringing of their children;

(2) *Mueller v. Allen*, 463 U.S. 388 (1983) which declared a Minnesota tax deduction program that provided State income tax benefits for educational expenditures by parents, including tuition in religiously affiliated schools, does not violate the Constitution;

(3) *Witters v. Department of Services for the Blind*, 474 U.S. 481 (1986) in which the Supreme Court ruled unanimously that public funds for the vocational training of the blind could be used at a Bible college for ministry training; and

(4) *Zobrest v. Catalina Foothills School District*, 509 U.S. 1 (1993) which held that a deaf child could receive an interpreter, paid for by the public, in a private religiously affiliated school under the Individual with Disabilities Education Act (20 U.S.C. 1400 et seq.). The case held that providing an interpreter in a religiously affiliated school did not violate the establishment clause of the first amendment of the Constitution.

**SEC. 2. DEFINITIONS.**

As used in this Act—

(1) the term "Board" means the Board of Directors of the Corporation established under section 3(b)(1);

(2) the term "Corporation" means the District of Columbia Scholarship Corporation established under section 3(a);

(3) the term "eligible institution"—

(A) in the case of an eligible institution serving a student who receives a tuition scholarship under section 4(c)(1), means a public, private, or independent elementary or secondary school; and

(B) in the case of an eligible institution serving a student who receives an enhanced achievement scholarship under section 4(c)(2), means an elementary or secondary school, or an entity that provides services to a student enrolled in an elementary or secondary school to enhance such student's achievement through instruction described in section 4(c)(2);

(4) the term "parent" includes a legal guardian or other person standing in loco parentis; and

(5) the term "poverty line" means the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved.

**SEC. 3. DISTRICT OF COLUMBIA SCHOLARSHIP CORPORATION.**

(a) **GENERAL REQUIREMENTS.**—

(1) **IN GENERAL.**—There is authorized to be established a private, nonprofit corporation, to be known as the "District of Columbia Scholarship Corporation", which is neither an agency nor establishment of the United States Government or the District of Columbia Government.

(2) **DUTIES.**—The Corporation shall have the responsibility and authority to administer, publicize, and evaluate the scholarship program in accordance with this title, and to determine student and school eligibility for participation in such program.

(3) **CONSULTATION.**—The Corporation shall exercise its authority—

(A) in a manner consistent with maximizing educational opportunities for the maximum number of interested families; and

(B) in consultation with the District of Columbia Board of Education or entity exercising administrative jurisdiction over the District of Columbia Public Schools, the Superintendent of the District of Columbia Public Schools, and other school scholarship programs in the District of Columbia.

(4) **APPLICATION OF PROVISIONS.**—The Corporation shall be subject to the provisions of this Act, and, to the extent consistent with this Act, to the District of Columbia Non-profit Corporation Act (D.C. Code, sec. 29-501 et seq.).

(5) **RESIDENCE.**—The Corporation shall have its place of business in the District of Columbia and shall be considered, for purposes of venue in civil actions, to be a resident of the District of Columbia.

(6) **FUND.**—There is established in the Treasury a fund that shall be known as the District of Columbia Scholarship Fund, to be administered by the Secretary of the Treasury.

(7) **DISBURSEMENT.**—The Secretary of the Treasury shall make available and disburse to the Corporation, before October 15 of each fiscal year or not later than 15 days after the date of enactment of an Act making appropriations for the District of Columbia for such year, whichever occurs later, such funds

as have been appropriated to the District of Columbia Scholarship Fund for the fiscal year in which such disbursement is made.

(8) AVAILABILITY.—Funds authorized to be appropriated under this Act shall remain available until expended.

(9) USES.—Funds authorized to be appropriated under this Act shall be used by the Corporation in a prudent and financially responsible manner, solely for scholarships, contracts, and administrative costs.

(10) AUTHORIZATION.—

(A) IN GENERAL.—There are authorized to be appropriated to the District of Columbia Scholarship Fund—

(i) \$7,000,000 for fiscal year 1998;

(ii) \$8,000,000 for fiscal year 1999; and

(iii) \$10,000,000 for each of fiscal years 2000 through 2002.

(B) LIMITATION.—Not more than 7.5 percent of the amount appropriated to carry out this Act for any fiscal year may be used by the Corporation for salaries and administrative costs.

(b) ORGANIZATION AND MANAGEMENT; BOARD OF DIRECTORS.—

(1) BOARD OF DIRECTORS; MEMBERSHIP.—

(A) IN GENERAL.—The Corporation shall have a Board of Directors (referred to in this title as the "Board"), comprised of 7 members with 6 members of the Board appointed by the President not later than 30 days after receipt of nominations from the Speaker of the House of Representatives and the Majority Leader of the Senate.

(B) HOUSE NOMINATIONS.—The President shall appoint 3 of the members from a list of 9 individuals nominated by the Speaker of the House of Representatives in consultation with the Minority Leader of the House of Representatives.

(C) SENATE NOMINATIONS.—The President shall appoint 3 members from a list of 9 individuals nominated by the Majority Leader of the Senate in consultation with the Minority Leader of the Senate.

(D) DEADLINE.—The Speaker of the House of Representatives and Majority Leader of the Senate shall submit their nominations to the President not later than 30 days after the date of the enactment of this Act.

(E) APPOINTEE OF MAYOR.—The Mayor shall appoint 1 member of the Board not later than 60 days after the date of the enactment of this Act.

(F) POSSIBLE INTERIM MEMBERS.—If the President does not appoint the 6 members of the Board in the 30-day period described in subparagraph (A), then the Speaker of the House of Representatives and the Majority Leader of the Senate shall each appoint 2 members of the Board, and the Minority Leader of the House of Representatives and the Minority Leader of the Senate shall each appoint 1 member of the Board, from among the individuals nominated pursuant to subparagraphs (A) and (B), as the case may be. The appointees under the preceding sentence together with the appointee of the Mayor, shall serve as an interim Board with all the powers and other duties of the Board described in this title, until the President makes the appointments as described in this subsection.

(2) POWERS.—All powers of the Corporation shall vest in and be exercised under the authority of the Board.

(3) ELECTIONS.—Members of the Board annually shall elect 1 of the members of the Board to be the Chairperson of the Board.

(4) RESIDENCY.—All members appointed to the Board shall be residents of the District of Columbia at the time of appointment and while serving on the Board.

(5) NONEMPLOYEE.—No member of the Board may be an employee of the United States Government or the District of Columbia Government when appointed to or during tenure on the Board, unless the individual is on a leave of absence from such a position while serving on the Board.

(6) INCORPORATION.—The members of the initial Board shall serve as incorporators and shall take whatever steps are necessary to establish the Corporation under the District of Columbia Nonprofit Corporation Act (D.C. Code, sec. 29-501 et seq.).

(7) GENERAL TERM.—The term of office of each member of the Board shall be 5 years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which the predecessor was appointed shall be appointed for the remainder of such term.

(8) CONSECUTIVE TERM.—No member of the Board shall be eligible to serve in excess of 2 consecutive terms of 5 years each. A partial term shall be considered as 1 full term. Any vacancy on the Board shall not affect the Board's power, but shall be filled in a manner consistent with this title.

(9) NO BENEFIT.—No part of the income or assets of the Corporation shall inure to the benefit of any Director, officer, or employee of the Corporation, except as salary or reasonable compensation for services.

(10) POLITICAL ACTIVITY.—The Corporation may not contribute to or otherwise support any political party or candidate for elective public office.

(11) NO OFFICERS OR EMPLOYEES.—The members of the Board shall not, by reason of such membership, be considered to be officers or employees of the United States Government or of the District of Columbia Government.

(12) STIPENDS.—The members of the Board, while attending meetings of the Board or while engaged in duties related to such meetings or other activities of the Board pursuant to this Act, shall be provided a stipend. Such stipend shall be at the rate of \$150 per day for which the member of the Board is officially recorded as having worked, except that no member may be paid a total stipend amount in any calendar year in excess of \$5,000.

(c) OFFICERS AND STAFF.—

(1) EXECUTIVE DIRECTOR.—The Corporation shall have an Executive Director, and such other staff, as may be appointed by the Board for terms and at rates of compensation, not to exceed level EG-16 of the Educational Service of the District of Columbia, to be fixed by the Board.

(2) STAFF.—With the approval of the Board, the Executive Director may appoint and fix the salary of such additional personnel as the Executive Director considers appropriate.

(3) ANNUAL RATE.—No staff of the Corporation may be compensated by the Corporation at an annual rate of pay greater than the annual rate of pay of the Executive Director.

(4) SERVICE.—All officers and employees of the Corporation shall serve at the pleasure of the Board.

(5) QUALIFICATION.—No political test or qualification may be used in selecting, appointing, promoting, or taking other personnel actions with respect to officers, agents, or employees of the Corporation.

(d) POWERS OF THE CORPORATION.—

(1) GENERALLY.—The Corporation is authorized to obtain grants from, and make contracts with, individuals and with private, State, and Federal agencies, organizations, and institutions.

(2) HIRING AUTHORITY.—The Corporation may hire, or accept the voluntary services

of, consultants, experts, advisory boards, and panels to aid the Corporation in carrying out this title.

(e) FINANCIAL MANAGEMENT AND RECORDS.—

(1) AUDITS.—The financial statements of the Corporation shall be—

(A) maintained in accordance with generally accepted accounting principles for nonprofit corporations; and

(B) audited annually by independent certified public accountants.

(2) REPORT.—The report for each such audit shall be included in the annual report to Congress required by section 11(c).

(f) ADMINISTRATIVE RESPONSIBILITIES.—

(1) SCHOLARSHIP APPLICATION SCHEDULE AND PROCEDURES.—Not later than 30 days after the initial Board is appointed and the first Executive Director of the Corporation is hired under this Act, the Corporation shall implement a schedule and procedures for processing applications for, and awarding, student scholarships under this Act. The schedule and procedures shall include establishing a list of certified eligible institutions, distributing scholarship information to parents and the general public (including through a newspaper of general circulation), and establishing deadlines for steps in the scholarship application and award process.

(2) INSTITUTIONAL APPLICATIONS AND ELIGIBILITY.—

(A) IN GENERAL.—An eligible institution that desires to participate in the scholarship program under this Act shall file an application with the Corporation for certification for participation in the scholarship program under this Act that shall—

(i) demonstrate that the eligible institution has operated with not less than 25 students during the 3 years preceding the year for which the determination is made unless the eligible institution is applying for certification as a new eligible institution under subparagraph (C);

(ii) contain an assurance that the eligible institution will comply with all applicable requirements of this Act;

(iii) contain an annual statement of the eligible institution's budget; and

(iv) describe the eligible institution's proposed program, including personnel qualifications and fees.

(B) CERTIFICATION.—

(1) IN GENERAL.—Except as provided in subparagraph (C), not later than 60 days after receipt of an application in accordance with subparagraph (A), the Corporation shall certify an eligible institution to participate in the scholarship program under this Act.

(ii) CONTINUATION.—An eligible institution's certification to participate in the scholarship program shall continue unless such eligible institution's certification is revoked in accordance with subparagraph (D).

(C) NEW ELIGIBLE INSTITUTION.—

(1) IN GENERAL.—An eligible institution that did not operate with at least 25 students in the 3 years preceding the year for which the determination is made may apply for a 1-year provisional certification to participate in the scholarship program under this Act for a single year by providing to the Corporation not later than July 1 of the year preceding the year for which the determination is made—

(I) a list of the eligible institution's board of directors;

(II) letters of support from not less than 10 members of the community served by such eligible institution;

(III) a business plan;

(IV) an intended course of study;

(V) assurances that the eligible institution will begin operations with not less than 25 students;

(VI) assurances that the eligible institution will comply with all applicable requirements of this Act; and

(VII) a statement that satisfies the requirements of clauses (ii) and (iv) of subparagraph (A).

(ii) CERTIFICATION.—Not later than 60 days after the date of receipt of an application described in clause (i), the Corporation shall certify in writing the eligible institution's provisional certification to participate in the scholarship program under this Act unless the Corporation determines that good cause exists to deny certification.

(iii) RENEWAL OF PROVISIONAL CERTIFICATION.—After receipt of an application under clause (i) from an eligible institution that includes a statement of the eligible institution's budget completed not earlier than 12 months before the date such application is filed, the Corporation shall renew an eligible institution's provisional certification for the second and third years of the school's participation in the scholarship program under this Act unless the Corporation finds—

(I) good cause to deny the renewal, including a finding of a pattern of violation of requirements described in paragraph (3)(A); or

(II) consistent failure of 25 percent or more of the students receiving scholarships under this Act and attending such school to make appropriate progress (as determined by the Corporation) in academic achievement.

(iv) DENIAL OF CERTIFICATION.—If provisional certification or renewal of provisional certification under this subsection is denied, then the Corporation shall provide a written explanation to the eligible institution of the reasons for such denial.

(D) REVOCATION OF ELIGIBILITY.—

(1) IN GENERAL.—The Corporation, after notice and hearing, may revoke an eligible institution's certification to participate in the scholarship program under this Act for a year succeeding the year for which the determination is made for—

(I) good cause, including a finding of a pattern of violation of program requirements described in paragraph (3)(A); or

(II) consistent failure of 25 percent or more of the students receiving scholarships under this Act and attending such school to make appropriate progress (as determined by the Corporation) in academic achievement.

(ii) EXPLANATION.—If the certification of an eligible institution is revoked, the Corporation shall provide a written explanation of the Corporation's decision to such eligible institution and require a pro rata refund of the proceeds of the scholarship funds received under this Act.

(3) PARTICIPATION REQUIREMENTS FOR ELIGIBLE INSTITUTIONS.—

(A) REQUIREMENTS.—Each eligible institution participating in the scholarship program under this Act shall—

(i) provide to the Corporation not later than June 30 of each year the most recent annual statement of the eligible institution's budget; and

(ii) charge a student that receives a scholarship under this Act not more than the cost of tuition and mandatory fees for, and transportation to attend, such eligible institution as other students who are residents of the District of Columbia and enrolled in such eligible institution.

(B) COMPLIANCE.—The Corporation may require documentation of compliance with the requirements of subparagraph (A), but neither the Corporation nor any governmental

entity may impose requirements upon an eligible institution as a condition for participation in the scholarship program under this Act, other than requirements established under this Act.

#### SEC. 4. SCHOLARSHIPS AUTHORIZED.

(a) ELIGIBLE STUDENTS.—The Corporation is authorized to award tuition scholarships under subsection (c)(1) and enhanced achievement scholarships under subsection (c)(2) to students in kindergarten through grade 12—

(1) who are residents of the District of Columbia; and

(2) whose family income does not exceed 185 percent of the poverty line.

(b) SCHOLARSHIP PRIORITY.—

(1) FIRST.—The Corporation first shall award scholarships to students described in subsection (a) who—

(A) are enrolled in a District of Columbia public school or preparing to enter a District of Columbia public kindergarten, except that this subparagraph shall apply only for academic years 1997-1998, 1998-1999, and 1999-2000; or

(B) have received a scholarship from the Corporation for the academic year preceding the academic year for which the scholarship is awarded.

(2) SECOND.—If funds remain for a fiscal year for awarding scholarships after awarding scholarships under paragraph (1), the Corporation shall award scholarships to students who are described in subsection (a), not described in paragraph (1), and otherwise eligible for a scholarship under this Act.

(3) LOTTERY SELECTION.—The Corporation shall award scholarships to students under this subsection using a lottery selection process whenever the amount made available to carry out this Act for a fiscal year is insufficient to award a scholarship to each student who is eligible to receive a scholarship under this Act for the fiscal year.

(c) USE OF SCHOLARSHIP.—

(1) TUITION SCHOLARSHIPS.—A tuition scholarship may be used for the payment of the cost of the tuition and mandatory fees for, and transportation to attend, an eligible institution located within the geographic boundaries of the District of Columbia; Montgomery County, Maryland; Prince Georges County, Maryland; Arlington County, Virginia; Alexandria City, Virginia; Falls Church City, Virginia; Fairfax City, Virginia; or Fairfax County, Virginia.

(2) ENHANCED ACHIEVEMENT SCHOLARSHIP.—An enhanced achievement scholarship may be used only for the payment of the costs of tuition and mandatory fees for, and transportation to attend, a program of instruction provided by an eligible institution which enhances student achievement of the core curriculum and is operated outside of regular school hours to supplement the regular school program.

(e) NOT SCHOOL AID.—A scholarship under this Act shall be considered assistance to the student and shall not be considered assistance to an eligible institution.

#### SEC. 5. SCHOLARSHIP AWARDS.

(a) AWARDS.—From the funds made available under this Act, the Corporation shall award a scholarship to a student and make scholarship payments in accordance with section 6.

(b) NOTIFICATION.—Each eligible institution that receives the proceeds of a scholarship payment under subsection (a) shall notify the Corporation not later than 10 days after—

(1) the date that a student receiving a scholarship under this Act is enrolled, of the

name, address, and grade level of such student;

(2) the date of the withdrawal or expulsion of any student receiving a scholarship under this Act, of the withdrawal or expulsion; and

(3) the date that a student receiving a scholarship under this Act is refused admission, of the reasons for such a refusal.

(c) TUITION SCHOLARSHIP.—

(1) EQUAL TO OR BELOW POVERTY LINE.—For a student whose family income is equal to or below the poverty line, a tuition scholarship may not exceed the lesser of—

(A) the cost of tuition and mandatory fees for, and transportation to attend, an eligible institution; or

(B) \$3,200 for fiscal year 1998, with such amount adjusted in proportion to changes in the Consumer Price Index for all urban consumers published by the Department of Labor for each of fiscal years 1999 through 2002.

(2) ABOVE POVERTY LINE.—For a student whose family income is greater than the poverty line, but not more than 185 percent of the poverty line, a tuition scholarship may not exceed the lesser of—

(A) 75 percent of the cost of tuition and mandatory fees for, and transportation to attend, an eligible institution; or

(B) \$2,400 for fiscal year 1998, with such amount adjusted in proportion to changes in the Consumer Price Index for all urban consumers published by the Department of Labor for each of fiscal years 1999 through 2002.

(d) ENHANCED ACHIEVEMENT SCHOLARSHIP.—An enhanced achievement scholarship may not exceed the lesser of—

(1) the costs of tuition and mandatory fees for, and transportation to attend, a program of instruction at an eligible institution; or

(2) \$500 for 1998, with such amount adjusted in proportion to changes in the Consumer Price Index for all urban consumers published by the Department of Labor for each of fiscal years 1999 through 2002.

#### SEC. 6. SCHOLARSHIP PAYMENTS.

(a) PAYMENTS.—The Corporation shall make scholarship payments to the parent of a student awarded a scholarship under this Act.

(b) DISTRIBUTION OF SCHOLARSHIP FUNDS.—Scholarship funds may be distributed by check, or another form of disbursement, issued by the Corporation and made payable directly to a parent of a student awarded a scholarship under this Act. The parent may use the scholarship funds only for payment of tuition, mandatory fees, and transportation costs as described in this Act.

(c) PRO RATA AMOUNTS FOR STUDENT WITHDRAWAL.—If a student receiving a scholarship under this Act withdraws or is expelled from an eligible institution after the proceeds of a scholarship is paid to the eligible institution, then the eligible institution shall refund to the Corporation on a pro rata basis the proportion of any such proceeds received for the remaining days of the school year. Such refund shall occur not later than 30 days after the date of the withdrawal or expulsion of the student.

#### SEC. 7. CIVIL RIGHTS.

(a) IN GENERAL.—An eligible institution participating in the scholarship program under this Act shall not discriminate on the basis of race, color, national origin, or sex in carrying out the provisions of this Act.

(b) APPLICABILITY AND CONSTRUCTION WITH RESPECT TO DISCRIMINATION ON THE BASIS OF SEX.—

(1) APPLICABILITY.—With respect to discrimination on the basis of sex, subsection

(a) shall not apply to an eligible institution that is controlled by a religious organization if the application of subsection (a) is inconsistent with the religious tenets of the eligible institution.

(2) CONSTRUCTION.—With respect to discrimination on the basis of sex, nothing in subsection (a) shall be construed to require any person, or public or private entity to provide or pay, or to prohibit any such person or entity from providing or paying, for any benefit or service, including the use of facilities, related to an abortion. Nothing in the preceding sentence shall be construed to permit a penalty to be imposed on any person or individual because such person or individual is seeking or has received any benefit or service related to a legal abortion.

(3) SINGLE-SEX SCHOOLS, CLASSES, OR ACTIVITIES.—With respect to discrimination on the basis of sex, nothing in subsection (a) shall be construed to prevent a parent from choosing, or an eligible institution from offering, a single-sex school, class, or activity.

(c) REVOCATION.—Notwithstanding section 3(f)(2)(D), if the Corporation determines that an eligible institution participating in the scholarship program under this Act is in violation of subsection (a), then the Corporation shall revoke such eligible institution's certification to participate in the program.

#### SEC. 8. CHILDREN WITH DISABILITIES.

Nothing in this Act shall affect the rights of students, or the obligations of the District of Columbia public schools, under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).

#### SEC. 9. RULE OF CONSTRUCTION.

(a) IN GENERAL.—Nothing in this Act shall be construed to prevent any eligible institution which is operated by, supervised by, controlled by, or connected to, a religious organization from employing, admitting, or giving preference to, persons of the same religion to the extent determined by such institution to promote the religious purpose for which the eligible institution is established or maintained.

(b) SECTARIAN PURPOSES.—Nothing in this Act shall be construed to prohibit the use of funds made available under this Act for sectarian educational purposes, or to require an eligible institution to remove religious art, icons, scripture, or other symbols.

#### SEC. 10. REPORTING REQUIREMENTS.

(a) IN GENERAL.—An eligible institution participating in the scholarship program under this Act shall report to the Corporation not later than July 30 of each year in a manner prescribed by the Corporation, the following data:

(1) Student achievement in the eligible institution's programs.

(2) Grade advancement for scholarship students.

(3) Disciplinary actions taken with respect to scholarship students.

(4) Graduation, college admission test scores, and college admission rates, if applicable for scholarship students.

(5) Types and amounts of parental involvement required for all families of scholarship students.

(6) Student attendance for scholarship and nonscholarship students.

(7) General information on curriculum, programs, facilities, credentials of personnel, and disciplinary rules at the eligible institution.

(8) Number of scholarship students enrolled.

(9) Such other information as may be required by the Corporation for program appraisal.

(b) CONFIDENTIALITY.—No personal identifiers may be used in such report, except that the Corporation may request such personal identifiers solely for the purpose of verification.

#### SEC. 11. PROGRAM APPRAISAL.

(a) STUDY.—Not later than 4 years after the date of enactment of this Act, the Comptroller General shall enter into a contract, with an evaluating agency that has demonstrated experience in conducting evaluations, for an independent evaluation of the scholarship program under this Act, including—

(1) a comparison of test scores between scholarship students and District of Columbia public school students of similar backgrounds, taking into account the students' academic achievement at the time of the award of their scholarships and the students' family income level;

(2) a comparison of graduation rates between scholarship students and District of Columbia public school students of similar backgrounds, taking into account the students' academic achievement at the time of the award of their scholarships and the students' family income level;

(3) the satisfaction of parents of scholarship students with the scholarship program; and

(4) the impact of the scholarship program on the District of Columbia public schools, including changes in the public school enrollment, and any improvement in the academic performance of the public schools.

(b) PUBLIC REVIEW OF DATA.—All data gathered in the course of the study described in subsection (a) shall be made available to the public upon request except that no personal identifiers shall be made public.

(c) REPORT TO CONGRESS.—Not later than September 1 of each year, the Corporation shall submit a progress report on the scholarship program to the appropriate committees of Congress. Such report shall include a review of how scholarship funds were expended, including the initial academic achievement levels of students who have participated in the scholarship program.

(d) AUTHORIZATION.—There are authorized to be appropriated for the study described in subsection (a), \$250,000, which shall remain available until expended.

#### SEC. 12. JUDICIAL REVIEW.

(a) JURISDICTION.—

(1) IN GENERAL.—The United States District Court for the District of Columbia shall have jurisdiction in any action challenging the constitutionality of the scholarship program under this Act and shall provide expedited review.

(2) STANDING.—The parent of any student eligible to receive a scholarship under this Act shall have standing in an action challenging the constitutionality of the scholarship program under this Act.

(b) APPEAL TO SUPREME COURT.—Notwithstanding any other provision of law, any order of the United States District Court for the District of Columbia which is issued pursuant to an action brought under subsection (a) shall be reviewable by appeal directly to the Supreme Court of the United States.

#### SEC. 13. EFFECTIVE DATE.

This Act shall be effective for each of the fiscal years 1998 through 2002.

#### SEC. 14. APPROPRIATION OF INITIAL FEDERAL CONTRIBUTION TO FUND.

There are hereby appropriated, out of any money in the Treasury not otherwise appropriated, \$7,000,000 for the District of Columbia Scholarship Fund.

Mr. STEVENS. Mr. President, is it proper at this time to move to recon-

sider the action taken by the Senate under this time agreement?

The PRESIDING OFFICER. Yes.

Mr. STEVENS. I move to reconsider the vote.

Mr. GREGG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SESSIONS. Mr. President, I ask unanimous consent the call of the quorum be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SESSIONS. I know there may be some agenda items that are necessary for other Members of the Senate to complete tonight. If so, I am happy to yield at an appropriate time.

#### BILL LANN LEE NOMINATION

Mr. SESSIONS. Mr. President, I rise to talk about the Bill Lann Lee nomination as Assistant Attorney General for Civil Rights. He is a good man, a lawyer of skill and experience. He is the son of an immigrant who has worked hard and done very well professionally and financially.

However, his nomination is in the Senate Judiciary Committee. Many of his positions are outside the mainstream of current legal thought, and I believe we need to reject that nomination. Regrettably, I intend to vote no when it comes up before the Judiciary Committee.

There has been some discussion and comments made that there have been scurrilous attacks against him. I just want to say that is not so. Certainly it is not so from the Senators who are members of the Judiciary Committee who have considered this nomination. Senator HATCH, the chairman of the Judiciary Committee, came to this body earlier this week. He made a very long, professional address, delineating his concerns about this nomination and why he had decided to vote no. He talked about legal issues, professional issues, positions of importance, and that is the basis of our concern—not personal attacks.

This position is a serious position. Mr. Lee has been treated respectfully. I have been at every hearing he has attended, and I have been at every hearing in which his nomination has been discussed. It has been discussed on a high level, according to the highest professional standards of this Senate. That is the way it should be. But his position is an important position, so it is necessary that we ask important fundamental questions and that we get answers from him, and then once we

get those answers, it is our responsibility, under the advice and consent responsibility of the Senate, to make a judgment as to how we should vote.

I want to say we must protect the civil rights of all Americans. We cannot, however, utilize civil rights laws as a tool to favor one group over another. We need to know what Mr. Lee thinks on what the issues are facing America. He is an advocate. We know that. I respect that. But we need to go beyond that. How deep is his advocacy? Can he take it away and can he be an objective and effective administrator of the civil rights policies of the U.S. Government, or does he maintain some of his advocacy views that are outside the mainstream of American legal thought?

That is why, I submit, he has been asked a number of questions and why we have taken this seriously.

This position has been vacant for 18 months. The President just recently submitted his nomination. Our committee has moved promptly to consider that nomination, and we brought it up last week for a vote. His supporters, perhaps fearing they did not have the votes, asked it be put over again for another week. I expect we will take that up Thursday of next week. Some have suggested that if there are not enough votes in the committee to confirm this nomination, that we ought to, regardless of that, send the nomination to the floor.

As a new member of the committee, I thought we had an interesting discussion about that. The Members who felt they were on the losing side raised quite a number of questions and earnestly argued for their position. Of course, this is a decision that we can make, and we can make any decision we choose, and they cited a number of historical examples why we should do that. Senator HATCH has been a member of the committee for a number of years and delineated the history. There has been no Executive nominee—and this nominee would be part of President Clinton's administration—reported out of that committee other than with a favorable recommendation since 1953.

In fact, a number of Democratic Senators on the committee were the very ones who just a few years ago voted not to send the nomination of Bill Lucas, an African-American who had been nominated by President Reagan to be civil rights chief—they voted not to send his nomination out. And they did the same with William Bradford Reynolds, another nominee of President Reagan, who was not sent forward, on their objection.

Therefore, they took the position—and I think one that is quite proper—if they so choose and if our committee so chooses, that the committee makes a recommendation as to whether or not a nomination should go forward.

Let me say there have been suggestions that scurrilous complaints and attacks have been made. I hate to hear that, but I say they have not come from our side. I say there have been some unwise and intemperate remarks by those who are supporting the Lee nomination in this U.S. Senate. They have, in effect, said, "Agree with us and you report out this nomination, or we will say you are against civil rights, we will accuse you of being against African-Americans, we will say you are against women, we will say you are against Chinese-Americans." They would, in fact, play the race card.

Sad to say, they have done just that. Mr. President, let me share with Members of this body and the American people some of the things that were said by Senators in this body about those of us who have concerns about this nomination. The Democratic leader had a press conference earlier this week, and he said, "The far right doesn't want the Civil Rights Division filled because they don't want civil rights laws enforced."

Now, I submit that is a sad thing to say. That is an extreme thing to say, that the chairman of our committee, Senator ORRIN HATCH, who has worked hand in glove with this administration to confirm every nominee they sent forward for the Department of Justice, except this one. This is the only one he has objected to. It is extremely unfair to say that we don't want civil rights laws enforced because we want to question this nominee and we believe he is outside the mainstream of current legal thought.

Senator KENNEDY said, "It's wrong for Republicans to hold him hostage to their anti-civil-rights agenda." I'm for civil rights. I believe in that. The other Members do. We just need to talk about what we really mean by the words "civil rights." Do civil rights mean equality for all as we traditionally thought? Or do we go to a new definition of civil rights that means preferences and advantages to one group or another group because of the color of their skin? We are not against civil rights. Senator KENNEDY went on to say, "It would be an outrage for a small band of anti-civil-rights Republican Senators to bottle up this nominee. A vote against Bill Lee is a vote against civil rights," he said.

Another Senator, Senator BOXER said, "By opposing Bill Lee, I think the Republicans are sending a signal to every minority in this country, to every woman in this country, that, frankly, they don't believe in equal opportunity for everyone."

That hurts me, Mr. President, to hear a Member of this body make such an extreme statement as that. I really think it was unnecessary and goes beyond what ought to have been said. We can disagree whether or not this nominee ought to be confirmed. But I think

we ought to all respect each other's views and opinions more than that. So I am concerned about that.

Another Senator, Senator MIKULSKI, was also aggressive in her remarks. This is how it was reported in the Washington Times the other morning on the front page:

Congressional Democrats, in a bid to save the nomination of a Chinese American as assistant Attorney General for Civil Rights, yesterday accused Republicans of racism.

"I don't think the United States Senate should be a forum for attacking Chinese Americans," said Senator Mikulski. "We don't want Bill Lann Lee to be the Anita Hill of 1997," she said.

This is what the paper reported:

Just after finishing leveling fire, the Maryland Democrat walked over to Senator Edward M. Kennedy and said under her breath, "I hated to do that, but we had no choice."

I am glad at least to know that she was reluctant to make those comments. I think she well should have been because I intend to take, and every member of this committee intends to take, this nominee seriously. We need to give him a fair hearing. He needs to be treated respectfully. But if his ideas are outside the mainstream of current American law, outside the direction we believe this Nation ought to go in civil rights, we have a responsibility to reject the nomination, and that is what I intend to do. I intend to fulfill my responsibility.

I want to say right now that I don't intend to be intimidated by attacks of that kind. I am going to do what I believe is right for this country.

Let me read you what some of the testimony was at hearings about this nominee.

Mr. Gerald A. Reynolds, an African-American, president of the Center for New Black Leadership, testified that he strongly opposed the nomination of Mr. Lee. He said:

If confirmed as Assistant Attorney General, Mr. Lee's background suggests that no democratic principle, controlling legal authority, nor legal standard will prevent him from furthering his particular ideological agenda.

Further he said:

For the last 30 years, traditional civil rights organizations have used civil rights laws as a weapon to extract benefits for racial minorities, no matter what the cost. Mr. Lee has spent most of his professional life doing that same thing.

Mr. Lee's legal defense fund sought to overcome the will of the citizens of California by persuading the ninth circuit to affirm Judge Henderson's ruling against Proposition 209.

I would argue that the legal defense fund's attempts to nullify Proposition 209 constitutes a direct assault upon our democratic principles. The legal defense fund's case against Proposition 209 rested on a thin reed. Basically, it rested upon two cases that are easily distinguishable from the facts surrounding Proposition 209.

I think we will talk about Proposition 209 in a minute. But just to point out, that is a civil rights initiative in

California that said people should be treated alike regardless of the color of their skin, and it mirrored almost exactly the 14th amendment to the Constitution of the United States and the Civil Rights Act of 1964.

Mr. Reynolds goes further:

There are other examples. We can look to the lawsuit in Los Angeles. The Los Angeles County Metropolitan Transportation Authority decided to increase its bus fares and eliminate monthly bus passes. Mr. Lee's legal defense fund lawsuit alleged that the MTA action violated the civil rights laws and the Constitution because they had an adverse impact on minorities and poor people.

Mr. Reynolds continues:

We can debate whether it was a good idea to eliminate some of the benefits that the citizens of Los Angeles enjoyed, but I think it is a stretch to conclude that a policy decision such as raising a bus fare and eliminating bus routes and eliminating bus passes constitutes a constitutional violation.

He went on to note that:

The lesson that we should have walked away with is that race is a toxic circumstance, and that it is wrong to distribute benefits and burdens on the basis of race.

I questioned Mr. Reynolds and I asked him about busing and how people in the minority community feel about busing.

Mr. Reynolds replied:

I think it is clear that most parents are concerned with the quality of education that their children receive, and most parents, black and white, do not care. Well, actually they prefer that it be a neighborhood school. More importantly, I think time has shown that forced busing has been an unmitigated disaster.

Those were the words of Mr. Reynolds. I further asked him, had he seen cases like the Houston busing case, on which Mr. Bill Lann Lee was the attorney, and where lawyers, professional litigators, who were involved in these issues as a business, their livelihood, continued to pursue remedies that the children and the parents of the children do not want. Mr. Reynolds answered: "Yes."

Well, that was from Mr. Gerald Reynolds, an African-American citizen of this country, opposing Bill Lann Lee. Is he against African-Americans? I submit not. Is he against women? I submit not. Is he against Chinese-Americans? I submit not. Is he against civil rights? I say no. He's for civil rights. There is no doubt about that.

Let me read you this excerpt from the testimony, in June, of Charlene F. Loen. Like Mr. Lee, she is a Chinese-American, and she gave some of the most poignant testimony I have heard before our committee. She actually came to tears. She talked about her son, Patrick, who wanted to attend Lowell High School in San Francisco, but he was prevented from attending that public high school because of a racial quota set up under a Federal court consent decree in 1983. Under the consent decree, she said:

Hard work and good grades are not always enough. My son Patrick found out the hard way.

I am quoting again:

In 1994, Patrick applied to Lowell, with a test score of 58 out of a 69. That year, Lowell set the minimum score for Chinese students at 62. But then Lowell set the minimum scores for white students and other Asians at 58. Lowell set the minimum scores for blacks and Hispanics lower than that. So Patrick could have gotten into Lowell if he were white, Japanese or black. He was rejected because he was Chinese American.

She went on:

Discipline, hard work, and academic achievement should be rewarded. Patrick studied hard, he got the grades, and he was rejected because he is of Chinese descent.

She went on:

The year Patrick was rejected, the San Francisco school district announced the opening of a new academic high school, Thurgood Marshall. I went to the school district to apply for Patrick. Right away, the person at the office asked me, "Is Patrick Chinese?" I said, "yes," and she said that the slots for the Chinese were already taken at Thurgood Marshall. I asked how could that be because the application period was not even over yet. She shrugged and said that that is just what the consent decree requires. Patrick also applied at three other high schools—Wallenberg, Washington, and Lincoln—and all three rejected him because they already had too many Chinese under the consent decree.

Those were her words. That is not the way, I submit, we ought to operate our Government today. She felt very strongly about that. And this is a Chinese-American testifying before our committee. In November, she said the Federal judge who approved the consent decree approved a payment by the State of California of over \$400,000 in legal fees to the NAACP, the legal defense fund, Bill Lee's unit, for opposing the lawsuit; in other words, the lawsuit that she had filed to try to get her son to be able to go to the school of her choice that he qualified to by objective standards.

A judge denied a motion to end the consent decree.

This is how she concluded her remarks.

Under the consent decree can you be denied admission to public school because of your race by treating people as members of racial groups rather than as individuals with the same rights before the law. The consent decree has dashed the hopes of children, denied my son and many others the right to opportunities they earned through hard work and diligence, condemned children to needless busing, prevented parents from being involved in their school and thereby holding school administrators accountable, and divided the people of San Francisco.

Divided the people of San Francisco.

This is the way things have been in San Francisco for the past 14 years.

Is Mrs. Loen against civil rights? I submit not. Is she against Chinese-Americans? No, she is not. She is a Chinese-American. Is she against women? No. Is she against minorities and civil rights? No.

Let me read this testimony before the Judiciary Committee's Subcommittee on the Constitution Federalism, and Property Rights chaired by Senator JOHN ASHCROFT. This is the statement of Senator MITCH MCCONNELL of Kentucky. He was talking about the "legally ordained" set-aside in Federal highway funding that mandated a certain percentage of the money be spent toward minority contractors.

This is what Senator MCCONNELL recounted:

Michael Cornelius recently spoke poignantly to this point before the Constitution Subcommittee in the House of Representatives. He explained that his firm [his business] was denied a Government contract under ISTEA [a Federal program] even though his bid was \$3 million lower than his competitor's. Mr. Cornelius' bid was rejected because the Government felt that the bid "did not use enough minority- or women-owned subcontractors."

To comprehend the full extent of the Government's unconstitutional policy, you must understand that the Cornelius bid proposed to subcontract 26.5 percent of the work to firms owned by minorities and women, and, of course, the Government concluded that even that was inadequate.

This is the kind of matter that the *Adarand* decision dealt with, and the *Adarand* decision is a decision Mr. Lee says he believes is bad constitutional law. But that is the Supreme Court of the United States, which in the *Adarand* decision set forth standards that basically demonstrate that these kind of set-asides are not fair. They are in violation of the equal protection clause of the Constitution of the United States.

Mr. President, I would also like to quote one more witness who testified. This is Mrs. Sue Au Allen, a Chinese-American, the President of the United States-Pan American Chamber of Commerce, a national nonprofit organization representing Asian-American business men and women, and other professionals.

She is a very impressive lady, and was very direct in what she had to say about the Lee nomination. She said:

Mr. Lee's record gives me grave concern, Mr. Chairman. As a nation's top civil rights law enforcement official, he will advocate certain policies on race and gender issues that are contrary to constitutional guarantee of equal right and opportunity for all Americans and that will have a deleterious effect on racial and gender harmony in general and on the rights of many individuals in particular.

She went on to say:

When I look at the arguments he has made in the last 20 years to determine his understanding of what equal protection requires, I learned that he does not believe in civil rights for all. He believes in quotas, set-asides, and preferences based on race and gender. This is not my belief. The person who believes in civil rights for some based on race and gender is a wrong person for this job.

She continues:

And his organization's defense of continuing judicial control of the desegregation of Lowell High School in San Francisco for high admission standards required of students whose admissions are kept at 40 percent . . .

She particularly mentioned that. This was just a few weeks ago. It is the same comment made by Mrs. Loen that I read earlier about Lowell High School in San Francisco.

Mrs. Allen continues, describing the assault on Proposition 209, the California civil rights initiative. This is what she said:

To bolster the assault on 209, Mr. Lee's Legal Defense Fund recruited the Federal Government as his ally. First, he filed a complaint with the U.S. Department of Labor's Office of Federal Contract Compliance Program and said that the decline in minority admissions at the University of California violates affirmative action rules imposed on Federal contractors.

This is the university:

It argued that the lowered admissions reduced the number of minority graduate students that the university might hire in complying with Federal racial preference programs.

This pushes legal theory, I submit, beyond any reasonable standard. This was for Mr. Lee's use. He is a private attorney now. He gained the support of his allies in the Department of Labor.

Quoting Mrs. Allen:

Second, although no student had ever complained about discrimination because of Proposition 209 or the University of California regents' vote to end racial preferences in admissions, Mr. Lee's Legal Defense Fund filed a complaint with the United States Department of Education attributing to discrimination the decline in minority admissions and enrollment at select University of California campuses.

So, Mrs. Allen is making a significant point. What she was saying was that even though a private attorney, Mr. Lee has been adept at inducing the Federal Government to join with him in his legal theory.

If confirmed in this position, he will, in fact, be the Federal Government, and he will have 250 attorneys at his disposal to send out on whatever cause he might deem appropriate.

She goes on to say this:

A San Francisco school district has been under a consent decree since 1983 because the Legal Defense Fund brought a suit to desegregate the school.

That is, since 1983, they have had a Federal judge monitoring that school system, I submit Mr. President.

She continues:

Under that decree, Lowell High School, a magnet school, where competition for admission is fierce, operates with a 40-percent cap on Chinese students. In addition, the school sets higher admission standards for Chinese students than for any other race or ethnic group. Recently, several Chinese students and their parents challenged that consent decree. But the Legal Defense Fund . . .

Which I submit is Mr. Lee's organization which he headed in the west:

. . . the Legal Defense Fund has actively defended the continuing judicial control over the district in the name of desegregation, this despite the adverse impact on Chinese students who would otherwise be admitted to Lowell and against the strong opposition of their parents.

Chinese-American parents.

Mrs. Allen said:

When the Legal Defense attorney called the consent decree segregation by inclusion, to me it is desegregation by discrimination and exclusion. These examples raise a very important question. As head of civil rights enforcement, will Mr. Lee argue for continued forced busing?

This lady Sue Au Allen, president of the Pan American-Asian Chamber of Commerce—is she anti-Chinese? She is of a Chinese descent. Is she antiwomen? Is she anticivil rights? Is she antiminority? I submit no.

Serious questions have been raised about this nominee. This use of scurrilous attacks has not been coming by those of us who are concerned about nominations. We are talking about real issues. We are talking about real cases. We are talking about the position of the U.S. Department of Justice and what kind of position it will be taking in these cases as the years go by.

Those who oppose him, however, have been intemperate at best in those remarks, and I hope and pray that they will evaluate that and be more responsive, be more respectful of their colleagues in the future.

Let me say this. Incivility is not acceptable. In my opinion, the Judiciary Committee over the past decade, over 20 years, 15 or 20 years, has gone through a series of confirmation battles that have not been healthy. They have not reflected well on the Senate, and they have not done well in analyzing whether or not people should be confirmed. I for one believe we ought to do better. I believe we ought to have a higher standard. I believe we ought to dig in seriously to the nominees and what they believe, their integrity, their ability and their legal philosophy. And I think we can do that and sometimes we are going to say no. We hate to. It is no fun to say no to a person who would like to have a position of prominence. But that is our position of responsibility and we must face up to it.

Let me just say this. Why is it that I am concerned with this nomination? There has been a lot of talk about the California civil rights initiative, Proposition 209, a very, very important event in American history.

Basically, what the people of California said is we do not believe in preferences. We, in effect, believe that in our State we want the law to be very similar and basically the same as what the 14th amendment to the Constitution of United States says. So they really encapsulated the 1964 Civil Rights Act, and the people of California passed that by a significant margin.

Mr. Lee's organization immediately joined in a challenge to that proposition and in fact filed a brief. It is one thing for him to oppose the proposition when the people are voting on it, to campaign about it, but he went further than that. His organization joined in the litigation to have Proposition 209, which says almost the same thing as the Constitution of the United States, declared unconstitutional, a perfectly legitimate referendum declared unconstitutional. And this is what the court of appeals, the Ninth Circuit Court of Appeals held when they considered Mr. Lee's opinion on Proposition 209.

They said this. This is a Federal court:

As a matter of conventional equal protection analysis—

Equal protection clause of the 14th amendment—there is simply no doubt that Proposition 209 is constitutional.

Those are the words of the ninth circuit, the most liberal of the eleven circuits in this country. Everyone suggests that. That circuit flatly rejected Mr. Lee's position, saying there is no doubt about it. And what is troubling is here you have an attorney seeking to attack the will of the people by bringing in a challenge to the constitutionality of an act that had no basis.

The court continued to say:

After all, the goal of the 14th amendment, to which the Nation continues to aspire, is a political system in which race no longer matters. The 14th amendment, lest we lose sight of the forest for the trees, does not require what it barely permits.

In other words, it does not require, the 14th amendment does not require preferences based on a person's race. It barely permits it. Only in the most extreme circumstances, only under the most strict scrutiny will a court ever approve an event in America in which we give a benefit to one person, thereby denying it to another simply because of their race.

So we have to be honest about this. It is time for us to talk about it seriously. We believe—I certainly do—in affirmative action, to go out and affirmatively solicit every person to apply, to seek out the best talent, to give people every chance to succeed, but we cannot tolerate quotas and set-asides and things of that nature.

Well, that is the important issue, Proposition 209, and Mr. Lee, when questioned about it, says it continues to be his position. And at the Civil Rights Division of the Department of Justice he would be prepared to file a brief on behalf of the United States of America in the Supreme Court to declare it unconstitutional. But he would not get that opportunity because the Supreme Court refused to even review the Ninth Circuit Court of Appeals ruling. The Supreme Court of the United States let it stand, denying certiorari, in effect saying this is a matter not

even worth our time to consider because the law is so clear, agreeing totally with the ninth circuit's opinion.

Well, there is another matter of importance, and that is the Supreme Court decision, recent decision in the Adarand case. Adarand dealt with the set-asides in Federal law, that in effect tell Federal Government highway administrators that they must set aside a certain percentage of Federal contracts for minority contractors. I earlier read the comments of Mr. Cornelius who was the low bidder by \$3 million on one of those contracts and had an agreement to hire 25 percent of his subcontractors who would be minorities, and that was rejected because it was not generous enough. This is the kind of issue with which we are dealing.

Adarand said basically that that cannot continue. I would suggest that the Supreme Court is very seriously thinking about this issue, and I believe the Supreme Court has looked down history in America and they have thought about it and they are saying we have got to stop, we have got to get out of this business of disbursing the goods and services of America based on what group you belong to. This is not the kind of principle upon which our country was founded, and that is what they meant by the Adarand decision, and that's why legal scholars consider it of thunderous importance, an extremely important decision.

OK. How does Mr. Lee feel about that? He opposed the Adarand decision. I asked him, does he still believe it is bad law? He says he believes it is bad law. He testified he does not agree with it. And he said something that is particularly troubling about it.

In his testimony, Mr. Lee stated that Adarand allowed affirmative action programs, which in this case means a kind of set-aside, in effect quotas. Sometimes affirmative action means affirmative outreach. Sometimes it means racial preferences and quotas. It just depends how it is used. But in this case we are talking about Adarand which had a set-aside in the law to favor some people. He said he thought they were legal under the Adarand decision if conducted in a limited and measured way.

That is not, Mr. President, what the Court in Adarand said. The Court in Adarand said that set-asides like this highway program are presumptively unconstitutional and can never be allowed except under the strictest of scrutiny. It is for the most significant of reasons that would justify these kinds of actions.

So what troubles me about that, and I know Senator HATCH raised it, is it suggests that as the top civil rights lawyer in this country he would not interpret Adarand the way the legal scholars do but would interpret Adarand in a way that would justify him applying the resources of the 250

attorneys in the Department of Justice to undermine the Adarand decision the Supreme Court has rendered.

So let me ask, am I against civil rights to say that? Do I not believe in civil rights to say that I agree with the Supreme Court of the United States, I agree with the ninth circuit of the United States with regard to Proposition 209? I submit not. I believe in civil rights for everyone and I think most Americans do.

I wanted to quote from the words of Congressman Charles Canady who testified before the Subcommittee on Constitution, Federalism and Property Rights of the Judiciary Committee just a few days ago actually. And this is what he says, Congressman CANADY from Florida:

If we go back to 1961, when President KENNEDY promulgated the original Executive order on affirmative action, it was clear in that Executive order that steps were to be taken to reach out to all parts of the community to bring people into the pool of applicants for opportunities, but that people were to be treated without regard to their race. That specific language was used in the Executive order.

So I believe that Senator MCCONNELL's proposal encompassing a number of outreach elements is [what we should do].

Congressman CANADY continued:

Now, this system of set-asides [which was legally challenged in the Adarand decision] that is in place has been described as a remedial system. The problem with this system, however, is that it provides benefits to people who have not demonstrated that they are victims of any specific wrongdoing and it imposes cost on individuals who have been demonstrated to be guilty of no wrongdoing themselves.

Do we get that? It provides benefits to people who do not demonstrate that they have been harmed and it provides costs on those who have not been demonstrated to have done anything wrong. Is it against civil rights to think such a policy is not good?

Congressman CANADY continued, I think saying it well:

I believe if we step back from this system [step back, like the Supreme Court is doing] which was put in place with the best of intentions [these set-asides and preferences and quotas] we have to conclude on the basis of our history as Americans that racial distinctions are inherently pernicious. It is fundamentally wrong [Congressman CANADY continued] for our country to divide this country into groups based on race and gender and then award benefits to some people because they belong to the right group and deny benefits to other people because they belong to the wrong group. That is inconsistent with our fundamental American values. It is inconsistent with the way our Government should treat its citizens.

He concluded:

I believe that the American people are becoming more and more weary of this failed system of race and gender preferences. They want to reaffirm the promise of America, that all Americans will be treated as individuals who are equal in the eyes of the law.

Well, I thought a good while about this. I think it was important to do so. I will just say this. We cannot end dis-

crimination by practicing discrimination. That is fundamental. Make no mistake, when you benefit one person because of the color of his or her skin you are depriving another person because of the color of his or her skin. It is just that simple. It can be no other way. And the courts are agreeing with this. And Mr. Lee is outside the mainstream of judicial thought in America today. His opinion, opposing the most important Adarand decision, represents that he opposes the position of the Supreme Court of the United States. For that reason I feel compelled to vote "no" on his nomination.

I yield the floor.

#### PRESERVATION OF SENATORS' PAPERS

Mr. LOTT. Mr. President, in the dozen or so weeks between the end of this congressional session and the start of the next, members might profitably encourage their staffs to pursue a matter of great importance to the preservation of the Senate's institutional memory. I refer to the archiving of senators' noncurrent office files and personal papers.

I recognize that most of us have enough to engage our attention thinking about the demands of today and tomorrow, without worrying a great deal about the records of yesterday. That's why the intersession recess offers a useful opportunity to address this important housekeeping matter. Our records deserve professional attention—not just in the final days of our Senate careers—but throughout our entire service here. The current proliferation of records in electronic formats makes this updating particularly urgent. Whether on disks, tapes, or paper, these records, if properly managed, will take their place as vital historical resources in the decades ahead. By planning now, senators can minimize preservation costs while maximizing research value at the time these records are opened for research and other educational purposes.

Many senators have already made commitments to home-state educational institutions for staged transfer of their non-current records. For those who have not, I urge you to seek the assistance of the Senate Archivist within the Office of the Secretary of the Senate. What better way could there be to join those who have come before us in preserving and enriching the documentary resource of this great institution.

#### THANKS TO MAJOR GENERAL LANSFORD E. TRAPP, JR.

Mr. DASCHLE. Mr. President, I would like to take this opportunity to thank and pay tribute to Major General Lansford E. Trapp, Jr. for his exceptional service to the United States

Senate as the Deputy Director and then Director of Air Force Legislative Liaison. Although I am disappointed that General Trapp will be leaving us shortly to become the next Commander of Twelfth Air Force in Arizona, his pending nomination to be a Lieutenant General and challenging assignment are well-deserved.

General Trapp's experience in southeast Asia, as wing commander in Panama during Operation Just Cause, and as commander of the 366th Wing at Mountain Home Air Force Base in Idaho prepared him well to lead the Air Force's Legislative Liaison. He is an extraordinary officer who, through dedication and expertise, has built an impressive record of achievement throughout his 28 years of service to our nation.

One of the most exceptional aspects of his background is that General Trapp is from my home state of South Dakota. In fact, Lanny and I were classmates at South Dakota State University, where we both participated in the Reserve Officer Training Corps program. We also entered the Air Force the same year, in 1969, amidst the turmoil of the Vietnam war.

I am proud of the fact that General Trapp has progressed to a leadership position of such significance because I believe it is a tribute not only to him and his family, but to the entire state of South Dakota. While Lanny is currently a long way from his hometown of Brookings, South Dakota, he has served our state and our country well throughout his career and particularly during his time in Washington.

His judgment and unquestionable integrity have formed the bedrock of the maturing relationship between the Air Force and the Senate, facilitating the modernization the Air Force has pursued in the post-cold war era. General Trapp has worked tirelessly to make the senior leadership of the Air Force easily accessible to Members and staff, knowing well the importance of constant dialogue. He has always been very responsive to inquiries and is a frequent and welcome visitor to the Hill. Under his leadership, General Trapp's Legislative Liaison organization enhanced its already strong reputation for responsiveness, thoroughness and accuracy when providing information on Air Force policies and programs to various committees, Senators and their staffs. He and his staff in the Senate Russell Office Building and in the Pentagon deserve to be commended for their hard work and dedication.

General Trapp has been particularly responsive and helpful to me during the past two years. As many of my colleagues know, South Dakota is the proud home of Ellsworth Air Force Base and the B-1 bomber. General Trapp has been very responsive to questions and concerns I have raised

from time to time, and the Air Force simply could not find a more fair and understanding representative. He willingly traveled with me to Ellsworth on more than one occasion.

It has been both an honor and a pleasure for me to work with General Trapp during his tenure as Deputy Director and then Director of Air Force Legislative Liaison. He has set new standards of excellence in these critically important positions, and all of us in the Senate are indebted to him for his efforts. More importantly to me, Lanny has become a good friend. My wife, Linda, and I congratulate General Trapp on his nomination to be a Lieutenant General in the Air Force and wish him and his wife, Nancy, great health and happiness as they embark on their new assignment. We will miss them both.

#### FISCAL YEAR 1998 LABOR, HEALTH AND HUMAN SERVICES AND EDUCATION APPROPRIATIONS CONFERENCE REPORT

Mr. DASCHLE. Mr. President, I would like to discuss an amendment that this body passed as part of the Labor, Health and Human Services and Education Appropriations bill. That amendment, S. 1101, would have put into motion a strategy aimed at confronting fetal alcohol syndrome (FAS), the number one cause of mental retardation in this country. Even though S. 1101 was a modest, non-controversial and wholly beneficial addition to the Labor/HHS bill, the House refused to accept it. There were no funding trade-offs involved, no unresolved policy concerns. Instead, the measure was killed because of "jurisdictional issues." To quote the conference report: "This matter is one that is more appropriately considered by the authorizing committees; those committees have objected to the inclusion of the provision in the conference agreement."

Mr. President, those committees have had five years to consider this matter. That's how long there have been bills in both the House and Senate that would do exactly what the amendment aimed to do. While Congress considers this matter, tens of thousands of children are being denied the capacity to live a normal life. Tens of thousands of families are confronting overwhelming obstacles as their children drift in and out of hospitals, mental health institutions, detention centers, and substance abuse treatment.

We can label it inertia, a lack of understanding, or bad timing, but there is no sufficient explanation for the lack of attention that has been paid to this issue. Fetal alcohol syndrome and fetal alcohol effects (FAE) are 100 percent preventable, yet new cases are identified every single day. Up to 12,000 children are born with FAS in the United States each year. Thousands more are

born with FAE. The incidence of FAS may be as high as one per 100 in some Native American communities.

FAS and FAE are characterized by multiple physical, mental and behavioral problems, handicaps that interfere in tragic ways with a child's ability to live a normal, productive life.

The costs associated with caring for individuals with FAS and FAE are staggering. The Centers for Disease Control and Prevention estimates that the lifetime cost of treating an individual with FAS is almost \$1.4 million. The total cost in terms of health care and social services to treat all Americans with FAS was estimated at \$2.7 billion in 1995. This is an extraordinary and unnecessary expense.

Aggressive action to fight back against FAS—to detect it and prevent it and help FAS children and their families cope with it—is long overdue. I am asking this body to work with me to ensure that we pass meaningful, targeted FAS legislation next year. Frankly, I am not particularly concerned about which protocols we follow to get us from here to there. Those details pale in comparison to the magnitude of the problem confronting us and the opportunities we have missed to address it. What I am concerned about is that we finally, finally, get the job done.

#### RETIREMENT OF HUMANA CHIEF EXECUTIVE OFFICER DAVID E. JONES

Mr. FORD. Mr. President, I'm honored today to salute one of Kentucky's and this nation's finest business leaders and statesmen, David A. Jones. David will soon be retiring as Chief Executive Officer of Humana Inc., the company he co-founded over 36 years ago.

David is one of this country's all-time great business leaders. His career has been marked by a deep commitment to high principles and community service and he will leave behind a very distinguished history of service to Kentucky and the nation. Fortunately, Kentucky and the health care industry won't be losing his guidance entirely as David continues as chairman of the board of directors of Humana.

A native of Louisville, David earned a bachelor's degree from the University of Louisville in 1954, where he won the outstanding senior award. He also became a Certified Public Accountant that same year. After three years of service in the U.S. Navy, he entered Yale University, earning a law degree (JD) in 1960, while also serving on the economics faculty from 1958 to 1960. David also holds honorary doctorates from the Chicago Medical School, the University of Louisville, Transylvania University and the Claremont Graduate School.

In 1961, David and another young lawyer, Wendell Cherry, discussed ways to

build and operate a new kind of nursing home—one that would treat its elderly patients not only with dignity and respect, but with a kind of personal attention rarely seen in nursing homes of that time. The nursing home was called Heritage House and was located in Louisville. The company began to grow and add additional facilities. Eventually, the company, then known as Extencicare, became the largest nursing home company in America with more than 40 facilities. As the company continued to grow, it eventually divested itself of all nursing homes to concentrate on the hospital business.

To reflect the company's new direction, the corporate name was changed to Humana Inc. in January of 1974. During David's tenure as chief executive, Humana Inc. became one of the nation's leading health care companies. The company pioneered the measurement of hospital quality and productivity to achieve consistent care for every patient.

In 1982, Humana established its Centers of Excellence program, designating hospitals that offered unsurpassed specialty care by combining research and education with state-of-the-art treatment. While the Humana Heart Institute International at Humana Hospital-Audubon became renowned for its pioneering research into the artificial heart, other Centers of Excellence were developed in the specialties of diabetes, neuroscience, orthopedics, and spinal injury care.

David continued to lead Humana as dramatic changes occurred in the hospital industry in the 1980s. In 1984, Humana created a family of flexible health care plans. The health insurance side of the company grew and matured, and in 1993, Humana separated its hospital and health insurance divisions. Although no longer in the hospital business, Humana Inc. continues to be one of the leading health care companies in the nation.

In addition to his outstanding business acumen, David is also a deeply committed humanitarian who created the Humana Foundation, a charitable organization committed to the arts, education and other causes around the world. In part because of that support, the Humana Foundation won the 1996 Business in the Arts Award given by the Business Committee for the Arts and Forbes Magazine.

David has helped build affordable housing in marginal neighborhoods, put computers in schools, supported an international theater festival in Louisville, helped launch an African-American business venture fund, helped attract the Presbyterian Church USA headquarters to the river front, and for a brief time in the 1970s, brought professional basketball to Louisville. More recently, he helped raise nearly \$750,000 in flood aid for Louisville residents and

businesses by pledging to match contributions from local companies or business leaders.

During his tenure as Chief Executive Officer of Humana, David worked hard for his employees, fought for his beliefs, and strived to make our nation an even better place. He has been a tireless promoter of business in Kentucky, and his efforts undoubtedly helped to make the state an important part of the burgeoning national economy.

Nationally, his opinions and actions help set the direction for health care policy, not just in this country, but all over the world. He has been the architect of many initiatives in this country, but has also been a leader in improving and expanding health care delivery in Romania. In a joint venture with Baylor Medical Center in Texas, Humana is helping rebuild the health care system in Romania, which is struggling to survive as a new democracy.

A compassionate heart has kept him humble and grounded, his path straight, his words true, and his conviction undiminished. The career of David Jones should be an model to all those who aspire to succeed in business. Indeed, David is a man of integrity, ability, and dedication, and we commend him for the great service he has rendered this Nation.

Mr. President, I know that all the Members of the Kentucky delegation, and my colleagues in the Senate, wish David good health and great happiness in the years to come.

#### COMMENDING DAVID E. LARKIN FOR EXCEPTIONAL SERVICE WITH THE BOY SCOUTS

Mr. FORD. Mr. President, I wanted to take just a moment to commend David E. Larkin for his extraordinary leadership, motivation and direction in the development of the Dan Beard Council, Boy Scouts of America.

Larkin has recruited, developed and motivated the Executive Board of the Dan Beard Council, BSA, representing one of the most prestigious philanthropic Youth Service Organizations in Greater Cincinnati and Northern Kentucky.

During his tenure on the council, he succeeded in improving the quality of life among the youth of that area by creating Challenge Camp, where more than 1,000 "at risk" youth were able to experience the cherished values of Scouting.

His imagination and creativity brought into being "The Scout Family Jamboree," an event attracting some 45,000 attendees, showcasing not only Scouting, but numerous community activities and events.

Over the years, Larkin has served the greater community by enriching the relationships between the Scouts, the

United Way and Community Chest, increasing both awareness and funding. He also created alliances between the Boy Scouts and the Greater Cincinnati, Northern Kentucky Schools and Educational Institutions, resulting in "Learning for Life" and Career Explorer programs.

His exceptional leadership and vision provided to be the catalyst for approval of a comprehensive \$14.5 million Camp Re-Development Capital Campaign to construct a 25 acre lake, Cub World and Boy Scout Camp.

Larkin has provided the leadership, high standards, the means and the methods necessary to expand the Scouting program to where it now involves a record 65,000 youths and adults annually throughout Southwest Ohio and Northern Kentucky. He has dedicated his life to the concepts of duty, honor and country central to the mission of the Boy Scouts and I know that the entire community will miss his guiding force.

Mr. President, let me close by thanking David Larkin for his commitment over the years to instilling the values of this country through the Boy Scout program. I know I speak for all Kentuckians when I say that his work will be felt by generations of Boy Scouts to come. We wish your much luck in all your future endeavors.

#### A VERMONTER MOVES ON

Mr. LEAHY. Mr. President, I would like to take this opportunity to recognize the lifetime of service that Mary Miller has given to the state of Vermont. I have been fortunate to have had Mary in my Montpelier office, working for the people of Vermont for 17 years. Anyone involved in rural development, small business, or affordable housing has undoubtedly seen for themselves her whole-hearted commitment to these issues which are so important for our small state. Even before joining my staff Mary was working to improve the lives of her fellow Vermonters through her service to Common Cause, and as a state legislator for her home base in Rutland County.

It is difficult to put into words Mary's boundless energy, her enthusiasm—and her ability to simultaneously make Vermonters feel good about what they are doing while helping them achieve their goals. At times I have felt that members of Congress are only Constitutional impediments to our staff. Mary is a humbling case in point. I have met hundreds of thousands of Vermonters over the past 25 years. I have been to every corner of the state many times over—and it's fair to say that often more people recognize Mary than recognize me. Sometimes it is not even close.

There is no mud season too miserable, no pothole too large, and no

snowfall too deep to keep Mary from meeting with Vermonters. I remember one spring in particular when she traveled for miles over muddy, rutted dirt roads to meet a small business owner who had benefitted from one of the revolving loan funds I have worked to set up around the state. As I recall, in this particular case the owner was not home, but his dog was and gave her quite a reception. He may be the only revolving loan fund recipient in the state that Mary has not met, and even his dog would recognize her.

Despite this outreach schedule, that would put many of her chronologically challenged co-workers to shame, Mary has always found time for fun. Even as she approaches the age when more conventional people are thinking about retirement, Mary is planning her next white water rafting trip.

I know I am not alone in saying that I will miss her lively presence in the office. I will miss her colorful reports on the weather which close out the daily press brief and her unflagging support for the Red Sox. But I don't plan on letting her get away too easily—I have Mary's e-mail address and it will be well used.

Mary is not retiring, just shifting her focus to new challenges, such as the mountains yet to be climbed, rivers yet to be rafted, grandchildren yet to be born. I know that her husband Sam is looking forward to seeing more of Mary as much as I regret seeing her leave. Vermont is lucky to have had Mary to itself for all these years.

#### UNITED STATES-SPAIN COUNCIL

Mr. GRAHAM. Mr. President, the relationship between the United States and Spain is the oldest one in North America. Almost 500 years ago—in 1513—Spanish Explorer Ponce de Leon and his crew in search of a Fountain of Youth discovered North America. What they found was a treasure of a different kind—a land that Ponce de Leon named “La Florida.”

In the four centuries since then, the histories of the United States and Spain have been inextricably linked. While there have been periods of estrangement and even hostility, the United States and Spain are “natural allies.” As we approach the end of this century, the cultural, political, and economic ties between the United States and Spain have never been stronger, nor more mutually beneficial.

This reinvigorated relationship is especially visible in the active relations, frequently in close collaboration, of Spain and the United States in Latin America.

To build on this exceptional period of positive relationship, the United States—Spain Council was formed in May 1996 by Vice President AL GORE and the President of Spain, Jose Maria Aznar. The Council was formerly estab-

lished at an organizational meeting held in Toledo, Spain in November 1996. The Council established itself as a forum in which Spanish and American citizens, including leaders in government business, education, and culture could discuss the state of the United States—Spain relationship.

In April of 1997 the Chairman of the Board of Trustees of the Fundacion Consejo Espana-Estados Unidos, Mr. Jaime Carvajal and the then Chairman of the United States—Spain Council, BILL RICHARDSON, signed an agreement of the common goals regarding their intent to: promote cooperation between Spain and the United States in the economic, trade, business, scientific and cultural fields; improve knowledge about each other's country and the image of the United States in Spain and of Spain in the United States; propose to their respective governments actions aimed at developing relations between the two countries and adopt other initiatives which would contribute to the progress and growth of relations between the United States and Spanish societies.

This past October 31 through November 2, 1997 the Council met here in Washington for two and one half days and in New York for an additional day on November 3, 1997. The meeting was attended by many prominent members of the Council from both nations, which led to a candid and thought provoking discussion of the topics on our agenda.

These topics included United States—Spain Trade and Investment Analysis of Direct Investment Practices, Spanish and United States images: Origins and Reasons, Strengthening United States—Spanish Ties, the Role of Civil Society (Educational and Cultural exchanges), Intellectual Property and Internet in Spanish.

The members of the Council agreed to undertake a challenging agenda short and long objectives, all intended to advance United States and Spanish relations.

I would like to thank Vice President AL GORE, Spanish Deputy Prime Minister of the Economy and Finance, Mr. Rodrigo Rato, Spanish Minister of Foreign Affairs, Mr. Abel Matutes, and Stuart E. Eizenstat, US Under Secretary for Economic Business and Agricultural Affairs, and other distinguished presenters, for their meaningful participation in our meeting.

I also take this opportunity to thank the two Executive Directors of our Council, Ambassador Diego Asencio and his Spanish counterpart, Emilio Cassinello Auban. Ambassador Asencio and his Assistant, Elia Garcia-McComie did an outstanding job of bringing together all the ingredients essential to a productive meeting.

It is important that my colleagues in the Senate and the people of the United States understand this special relation-

ship, which is old in historical terms and yet new because it is being reinvigorated by this renewed attention to its importance. We must recognize that the United States with its growing Spanish speaking population, is a logical bridge between Latin America and Spain. We must take advantage of this moment in history to strengthen cultural and educational ties as well as promoting investment opportunities for both countries.

I ask unanimous consent that excerpts of speeches at the meeting by Vice President GORE, Mr. Rato, Mr. Eizenstat, and the entire text of Mr. Matutes' address be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

#### EXCERPTS OF REMARKS OF VICE PRESIDENT AL GORE

Thank you so much.

You know, Bob Graham is truly a national treasure. He has done so much to nurture the friendship between Spain and the United States, and has been such a leader in building a thriving new era in the affairs of our hemisphere. I am honored to be here with him today.

When President Aznar and I met last year, we looked forward to the day when a vanguard of key leaders from business and academics, politics and culture would meet to discuss issues of common concern.

What we do here today is an important new step in the evolving relationship between our peoples and our nations—a relationship that dates back hundreds of years of rich history.

Our historic ties, strong alliance and shared ideals underpin an ambitious cooperative effort in support of peace, democracy and prosperity in important areas such as the former Yugoslavia, the Middle East, Central and Eastern Europe and Latin America.

Each of you here this morning represents a specific aspect of the American-Spanish relationship—whether in diplomacy and government, business, culture, education, the media or in any of a host of other endeavors.

The variety of this group mirrors the complexity of our exchanges and drives home the point that it is in our daily business, public or private lives, that our nations' bonds are created and affirmed. Some many of the important national issues we address have international ramifications. Doing our jobs well means doing them well together.

All this, ladies and gentlemen, can be summed up in one sentence: U.S.—Spanish relations are excellent now, and poised to become even more productive in the coming years.

I applaud your work; and I salute your commitment to a new era, and a new century of friendship between Spain and the United States.

Buena Suerte, and Good Luck!  
EXCERPTS OF A SPEECH BY THE SPANISH DEPUTY PRIME MINISTER AND MINISTER OF THE ECONOMY AND FINANCE, RODRIGO RATO  
“THE SPANISH ECONOMY ON THE THRESHOLD OF THE EURO”

It is a great honor for me to have the chance to close this Third Spain-United States forum. Previous sessions have demonstrated the great utility of these platforms, involving a wide range of personalities from all fields, in enhancing dialog between the two countries and promoting

greater approachment and mutual understanding.

In a globalized work such as today's, marked by freedom of exchange and the mobility of factors, it is clear that there can be no isolated response to the problems affecting our economies. The global interrelation which surrounds us assesses the need for coordinating mechanisms which are sufficient to meet the demands of the international economy effectively and with assured success.

EMU implies for Spain an economic policy which would have to be pursued in any case (even if there were no EMU), given the challenge of globalization and competition with North America and in the Asian Pacific region. EMU represents macro-economic stability, a necessary pre-requisite in the creation of jobs.

EMU is a strategic challenge. The point of no return for the creation of EMU and for Spain's participation has been reached. For Spain, there is no strategic alternative to our full participation from the outset. EMU will not however be a panacea that will resolve all our problems with no effort on our part. Moderation of production costs, restraints of public spending and tax policies to format saving and investment are key elements to the creation of jobs.

Trade unions and employers have recently given ample evidence of their sense of responsibility in dealing with the historical challenge posed for Spain by EMU. Spanish society and the Government are certain that they will be up to the task and that social consensus will be maintained. The Government considers this social consensus to be fundamental to its economic policy strategy for stability and job creation.

As revealed by the figures and the results of the last year, the Spanish economy has shown considerable maturity, adapting and reacting positively to the changes made to its system. Spain is, at this time, an adaptable economy, increasingly flexible, and with a dynamism which I do not doubt will increase as we pursue the structural reforms under way.

EXCERPTS OF REMARKS FOR UNDER SECRETARY EIZENSTAT AT U.S.-SPAIN COUNCIL LUNCH

#### U.S.-SPANISH TRADE RELATIONS

It gives me great pleasure to welcome you to the State Department today. I am honored to host this event which marks the first meeting in the United States of the U.S.-Spain Council. I want especially to congratulate all those who have helped make this meeting possible. I believe this group has a vital role to play in the New Transatlantic Agenda and in building and strengthening essential contacts between our two countries.

The overall relationship between Spain and the United States can best be characterized as one of increased mutual trust and cooperation, especially during the past decade. We value Spain's commitment to strengthened transatlantic ties and desire to strengthen points of contact in many areas—political, military and economic. Spain has courageously taken a leadership role on many of the most challenging and demanding issues before Europe today—peacekeeping in Bosnia and the Middle East, development of a Mediterranean initiative, the expansion of NATO, and improved transatlantic trade. It was Spain that was most outspoken in its opposition to the undemocratic Castro regime in Cuba. Spain's leadership and initiative made it possible to create consensus among governments, the private sector and nongovernmental organizations

on ways to promote democracy and freedom in Cuba.

The relationship between Spain and the United States remains a partnership between equals who agree on the basic principles that will help achieve the goal of a New Transatlantic Marketplace. This is demonstrated here today by the number of important U.S. and Spanish business and government representatives committed to continuing an honest and open dialogue on these issues.

Once again, let me welcome you to the State Department and encourage your successful collaboration.

ADDRESS BY THE MINISTER OF FOREIGN AFFAIRS  
MR. ABEL MATUTES

Mr. Secretary of State for Energy, Mr. Under Secretary of State for Economic Business and Agricultural Affairs, Mr. Ambassador, Chairmen of the United States-Spain Council, Ladies and Gentlemen: Today I visit Washington once again, on the occasion of the III Forum, organized by the U.S.-Spain Council, an initiative that rests on society, sponsored from the outset by the President of the Spanish Government and Vice President Gore, as a dynamic contribution to the cooperation between our countries. We must congratulate ourselves for the continuity this open and informal dialogue has attained, a dialogue which brings together businessmen, legislators, scholars, professionals and politicians from Spain and the U.S.

The III meeting of the Forum—the first to be held in the United States—has been preceded by two previous ones: Seville in 1995 and last year in Toledo. It is with utmost satisfaction that we Spaniards now review certain predictions made in Seville and Toledo. At the close of 1995, cautious predictions envisaged the possibility of Spain being in the first group of countries to enter the E.M.U. and inaugurate the movement towards the euro. As a conclusion to the debate on the Spanish economy, Seville's records state that: "the Spanish economy will continue to grow relatively strongly for the next couple of years, the underlying concern being whether or not Spain will meet the Maastricht convergence criteria". One year later, in November 1996, the Toledo report literally stated that "the markets judge that Spain has a 70% chance of joining the E.M.U. on schedule". Today, scarcely twelve months after these predictions, neither the economists, nor the politicians nor the markets leave any room for doubt. Spain will be on time for this crucial economic and political rendezvous, and will belong to the group of countries that will lead the E.U. into the coming millennium.

It is obvious that, as members of the E.U., political and economic convergence within the process of construction of Europe is for us of paramount importance. This does not exhaust, however, our foreign policy options. Spain can today envisage being present simultaneously in all those international scenarios, where necessary to defend its national interests. This allows me to affirm, without reservations, that the Spanish foreign policy has multiple essential goals that are perfectly compatible. In this sense, Europe does not preempt Latin America and even less so our concerns for the Mediterranean; convergence with the E.U. is not unreconcilable with the transatlantic common goals, bilaterally with the United States and multilaterally, within the E.U. and N.A.T.O.

In the economic field, the fact is that the intensification of our relationship with member countries of the European Union has

reduced the relative weight of trade and investment between the United States and Spain. Notwithstanding, the global value of our exchanges reflects a first-class relationship with the United States. Our trade flows top the 10 billion dollar mark. The United States is our most important trade partner outside the E.U. It is clear that the balance is tilted in favor of the United States—6.5 billion dollars against 3.6 billion dollars in 1996—, compelling us to redouble the efforts to reach a more balanced export-import ratio, surmounting tariff barriers and the so-called "equivalent effect measures". The image factor, —or the lack thereof, rather than its shortcomings—, plays a relevant role in the Spanish exports to the United States, a fact which has drawn the Council's justified attention. The analysis of the origins and solutions to the absence of a Spanish image in the United States may well be a substantial contribution of this Washington Forum.

In turn, Spanish investment in the U.S. market is growing. With an annual volume ranging between 300 and 400 million dollars, it accounts for 5% of Spanish investments abroad. We must not forget either the decisive role played by U.S. investments in the Spanish development in terms of contributing technology innovation, occupational training and job creation in the 60's, 70's and 80's. Currently U.S. financial investments in the Spanish stock exchange are of considerable importance. Statistics show that more than 500 U.S. corporations are present today in the Spanish economy, the eighth in the world in terms of industrial output, with a G.D.P. that exceeds five hundred billion dollars, which makes Spain the top medium income country.

Many of these, import, export and investment companies are represented in the U.S.-Spain Council, and their Chairmen and CEOs are here today to participate in this III Forum. The Program for discussion of this Forum has scheduled an interesting session on "joint ventures". Their primary field of action is obviously in this hemisphere. The possibilities of success of these Spanish-American joint ventures, particularly in basic areas such as infrastructure, services and finance are increased by the affinity of the Spanish culture, by the fact that Spain is the first European investor in Latin America, and by the existence of a sophisticated and complex network of cooperation agreements between Spain and Latin American countries. The Latin American experience can be obviously useful in other regions and markets, be they European, mediterranean or Asian.

In short, the potential of economic interests requires both Governments to promote and encourage the transatlantic business dialogue and to increase our exchanges. The creation of the United States-Spain Council is a step in this direction. Our dual convergence with the United States, both bilaterally and as a member of the E.U., must be regarded in the framework of the New Transatlantic Agenda that President Clinton signed in Madrid and that Undersecretary of State Eizenstat referred to as "the roadmap of our relationship into the XXI Century", not only in the economic field, but also in the field of foreign policy and security understood in its widest sense. In this context, the Spanish Government has given proof of its willingness—which I reiterate today—of pioneering in Europe the "habit of consultation" in Europe, in my view the cornerstone of this New Transatlantic Agenda.

In the cultural field, our relations continue to advance, but the volume of the Spanish

presence in the United States is still insufficient. Notwithstanding, our cultural heritage is among the most important in the world; the artistic creativity of the Spanish people has produced and continues to produce exceptional works; and our language is a work of art of the ancestral living and daily communication we share with 400 million people. Of these, nearly 30 million live within the borders of the United States, making this country the fifth-ranking Spanish-speaking country in the world.

Where do we then stand with regard to our cultural relations?

The answer is not as satisfactory as it could and should be, even though new means and mechanisms have been created to open significant perspectives for the increase of our cultural exchanges. We witness growing levels of cooperation in the field of education: within twelve to eighteen months there will be 2000 Spanish teachers in American high schools, two Cervantes Institutes, in addition to New York and Chicago, a greater number of privately funded scholarship programs, including post-graduate students such as Spain-U.S.A. 2000. The expectations are ambitious and we should continuously stimulate them, especially in a country where 65% of all students choose Spanish as a second language, including the daughters of both President Clinton and Vice-President Gore. New technologies and media, the promotion by audio-visual means of Spanish cultural expressions, the introduction of the Spanish language in the Internet—another subject included in the program of discussion of the III Forum—, in sum, the whole arsenal of modern communication should be used in a tightly coordinated strategy, to achieve a widespread presence of Spain in the United States, including, naturally, tourism and the healthy Mediterranean diet.

Taking all this into account, I believe that the engagement of society in this task is absolutely essential. This is why I am so pleased by the fact that the United States-Spain Council has, among its specific goals, that of promoting our relations with the Hispanic community in the U.S. I am particularly encouraged by the fact that this will be one of the issues to be discussed in this III Forum, both in the context of education and promotion of people to people links as well as from the perspective of image and mutual understanding. In fact, the U.S.-Spain Council which owes much of its existence to the talent and the perseverance of Ambassador Bill Richardson is, in itself, a good example of the special predisposition that Spaniards and Hispanics share to understand each other.

Finally, I would like to make reference to the third convergence that makes our relationship unique: the security and defense issues, the military component of the Spanish-American ties. Historically, Spain has evolved from contributing to the struggle for American independence 200 years ago, to its accession to the Washington Treaty in 1982 and common membership in N.A.T.O. It can even be said that, since 1975, the major change in our growing exchanges with the American Government and society has been a progressive reduction of the military issue in the relationship as a whole. We are no longer primarily a military ally, as we have become above all a partner in the International Community, engaging in excellent and extensive political, economic and cultural relations, that do not, however, exclude the security and defense link.

The N.A.T.O. Summit held in Madrid last July, was a crucial moment in the design of

a new post-Cold War N.A.T.O., both in its internal renovation and its external adaptation. Spain and the United States share a common view in practically all issues: the new design of the command structure; the development of the European Identity in Security and Defense, involving the effective participation of the W.E.U.; the full support to the new Council of Euro-Atlantic Association; the enlargement understood as a historical challenge that demands an undefeatable response and as a evolving process that began with three countries but has been left open to the future; the full support to the new Council of the Euro-Atlantic Association; the N.A.T.O. Russia cooperation, and the special relationship with the Ukraine; the strengthening of the Mediterranean dialogue, and the creation of a Group for Cooperation in the Mediterranean.

Consequently, we have arrived at a juncture in which we feel that the transformation of the current model of our presence in the renewed Alliance, and our entrance in the new command structure is deemed advisable. We believe that the necessary adjustments are practically concluded, in a conceptual design that is acceptable both to Spain and to the Other N.A.T.O. partners. We trust that this decision will be formalised next December, without undue interference from any extraneous bilateral discussion, foreign to the Alliance, which ought to be solved in other fora.

Ladies and Gentleman;

Our world is irrevocably and unquestionably different. Globalization—of markets, of finance, of technology, of challenges—is not an option but a reality. International relations are predominantly multilateral; the expansion of democracy can be demonstrated; the proliferation of new conflicts within states, rather than between states, is a proven fact and an unfortunate truth, and the revolution in communications and information technology is the result of the most significant and drastic technological changes since the Industrial Revolution.

And within such complex and changing framework, that is so contradictory in its inequalities and its fortunes, it seems appropriate that as Minister of Foreign Affairs of Spain I encourage the United States to continue to be the most visible international spokesman in favour of stability, sustainable development, peace and security. This is not a responsibility that must be carried out alone. Europe must participate since we share a common world, since the United States is a European country and Europe is an Atlantic Continent. This is Spain's understanding which has been postulated numerous times over the last years. The United States can rest assured that in the conflict-stricken scenarios of the world and in the daily life of the international community, it will always find a Spaniard striving towards peaceful co-existence, democracy and the rule of law.

This does not imply that no differences exist between the policies of both and countries, or that we will not encounter situations in which, while agreeing on the goals, we dissent on the means. In such a complex and vital relationship, perpetual consensus or systematic unanimity are unattainable. It is in exploring doubts and in the search for alternatives, that the intelligence of thought is expressed. On occasion's, this is the only manner in which partner of good faith can effectively help one another, in a relationship as plural and conditioned by the World's diversity as ours.

I would like to end by congratulating, once again, the U.S.-Spain Council for having

maintained this initiative and the continuity of its meeting. The ambitious originality and imagination of its members allows us to harbour great expectations about their practical proposals which we shall listen to with great attention.

#### TRIBUTE TO REV. WALTER J. KEISKER

Mr. ASHCROFT. Mr. President, I rise today to recognize a tremendous individual who exemplifies citizenship, character, and service to humanity, Rev. Walter J. Keisker.

On November 12, 1997, the Lutheran Family and Children Services [LFCS] of southeast Missouri will host The Second Annual Walter J. Keisker Dinner. I commend LFCS staff for their foresight in choosing Reverend Keisker to lead their mission. As our Nation looks increasingly for moral guidance in an era of moral decay, Reverend Keisker's example provides inspiration for others to follow in building family life.

Anyone ever associated with Reverend Keisker knows of his unique spirit and tenacity which has brought about a rich lifetime of accomplishments. This special servant of God and man was bestowed a honorary degree of doctor of divinity in 1993 by Concordia Seminary in St. Louis. Reverend Keisker generously gives his time to the Boy Scouts, Ministerial Alliance, Chamber of Commerce, and Historical Society. His dedication is an enduring example of service, integrity, faithfulness, and love in the highest and best spirit of American citizenship.

From Matthew, Chapter 25, Verse 21, "Well done, my good and faithful servant!" With God's blessing, and the benevolent commitment of Rev. Walter J. Keisker as a guiding light, the Lutheran family and children's services will continue to be successful in building a stronger family life.

#### CONGRATULATIONS TO EDITH BARCOMB CELEBRATING HER 88TH BIRTHDAY

Mr. ASHCROFT. Mr. President, I rise today to encourage my colleagues to join me in congratulating Edith Barcomb of Springfield, MO, who will celebrate her 88th birthday on November 26. Edith is a truly remarkable individual. She has witnessed many of the events that have shaped our Nation into the greatest the world has ever known. The longevity of Edith's life has meant much more, however, to the many relatives and friends whose lives she has touched over the last 88 years.

Edith's celebration of 88 years of life is a testament to me and all Missourians. Her achievements are significant and deserve to be recognized. I would like to join Edith's many friends and relatives in wishing her health and happiness in the future.

1997: A BANNER YEAR OF WORK  
FOR SENATE FOREIGN RELATIONS  
COMMITTEE

Mr. HELMS. Mr. President, this past week, the Senate Foreign Relations Committee held its final business meeting of the 1st session of the 105th Congress. At that meeting, the committee approved 50 nominations as well as three pieces of legislation. This was the culmination of an ambitious 1997 agenda which included 97 committee meetings—the first on January 8 when the committee convened to consider the nomination of Madeleine Albright to be Secretary of State.

With this past week's business meeting, the committee had approved and sent to the Senate, in 1997, 119 nominations, approved 1,004 Foreign Service promotions and reported out 37 pieces of legislation, while approving 15 treaties. Among the nominations were the Secretary of State, numerous Assistant Secretaries of State, and Ambassadors to the United Nations, Canada, the United Kingdom, Japan, Greece, Korea, Israel, and Egypt.

But this, Mr. President, does not begin to tell the full story. Thanks to the able members of the committee staff, hard work of the committee members—the subcommittee chairmen and ranking members—and thanks to the bipartisan spirit which we, all of us, have worked to establish, we have—all of us together—succeeded, in the opinion of, at least, two former Secretaries of State, in returning the Foreign Relations Committee to top-draw relevancy for the first time in decades. I believe it is fair to say that, thanks to the joint efforts of so many, the committee is today a force to be reckoned with in terms of U.S. foreign policy.

Mr. President, the most concrete evidence of this rejuvenation came in May and June, when the committee wrote and approved sweeping bipartisan legislation to reorganize and revitalize the U.S. foreign policy apparatus, and reform the United Nations. This bill passed the Senate by an overwhelming 90 to 5 vote stipulating the abolishment of two antiquated temporary Federal agencies—the U.S. Information Agency and the Arms Control and Disarmament Agency—and brings another—the Agency for International Development—under the authority of the Secretary of State.

And, just as importantly, it strikes a grand bargain regarding the United Nations, paying \$819 million in so-called U.S. arrears in exchange for deep-seated and meaningful U.N. reforms.

In addition, since the August recess, the full committee, and its various subcommittees, have convened literally dozens of hearings on a wide range of foreign policy matters. During the fall months, the committee began hearings on what will surely be next year's most important foreign policy debate: The expansion of the NATO alliance.

The committee has already held six hearings—beginning with testimony from Secretary of State Albright—hearings which I believe will have a real impact in ensuring not only that NATO expansion is approved by the Senate next spring, but that the plan presented to the Senate for its advice and consent is done the right way, taking into account the legitimate concerns various Senators have presented.

It is difficult for me to express in any adequate way my gratitude to the members of this committee for all their efforts this past year. The chairmen and ranking members of the various subcommittees have done splendid work in the consideration of all the nominations, the bilateral tax treaties that are so important to American industry, and to hold oversight hearings on so many important matters.

It is because of their work—not Senator BIDEN's nor mine—that this committee has been restored to the world stage as an important player in American foreign policy. I am proud of them and, it has been a privilege to serve with them on the Foreign Relations Committee.

JUDGE IN MINNESOTA BLOCKS  
CLASS I DIFFERENTIALS

Mr. JEFFORDS. Mr. President, this week Senator LEAHY and I addressed the Senate about our concerns and disappointment with the recent order by the U.S. District Court of Minnesota which enjoined the Secretary of Agriculture from enforcing class I differentials in 28 of the current 33 Federal milk marketing orders. If the November 3, 1997, ruling stands, it will throw the entire milk pricing system into chaos threatening the continued existence of thousands of dairy farms nationwide.

Mr. President, it is imperative that Secretary Glickman move immediately to seek a stay and file an appeal to the court's decision. I am joining several of my colleagues in a letter to Secretary Glickman to formally request that the U.S. Department of Agriculture appeal the decision. I urge others to contact Secretary Glickman to recommend that he act swiftly in this request as well.

Mr. President, I ask unanimous consent that a copy of the letter being sent to Secretary Glickman appear in the RECORD.

This ruling should not impact the current reforms of the Federal milk marketing orders with respect to the basic formula price and class I differentials. It is important that the Department of Agriculture continue to use sound public policy in determining a pricing structure that is in the best interest of dairy farmers and consumers alike. Both the Senate and the House of Representatives have expressed in overwhelming fashion to the Secretary

of Agriculture the support and importance of maintaining our class I differentials. Recently, 48 Senators wrote to Secretary Glickman supporting class I differentials and endorsing the Department's option 1-A proposal.

Mr. President, I ask unanimous consent that the letter of October 10, 1997, regarding overwhelming support for option 1-A appear in the RECORD.

Mr. President, those of us who value dairying in our States should recognize the dangerous precedent of this ruling. The success of an appeal to overturn in this case is of vital importance to the survival of dairy farmers across this Nation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,

Washington, DC, November 10, 1997.

HON. DAN GLICKMAN,  
Secretary, U.S. Department of Agriculture,  
Washington, DC.

DEAR SECRETARY GLICKMAN: Considering the recent district court decision out of Minnesota, we want to reconfirm our views on milk marketing orders and strongly recommend that the USDA seek a stay and appeal the decision.

In reviewing the various options for the pricing of Class 1 fluid milk, it is still our view that Option 1-A is the most viable and economically sound approach to the future pricing of fluid milk.

Last month forty-eight Senators and one hundred and thirteen Members of the House of Representatives indicated to you that Option 1-A reflects good public policy necessary for effective milk marketing order reform. Our support for Option 1-A is based upon a number of important factors:

It recognizes the transportation costs involved in moving fluid milk from the farm to the consumer.

It takes into account the importance of balancing the supply and demand for milk, ensuring adequate production to meet all fluid milk needs.

It recognizes the costs of producing and marketing milk and, therefore, does not inflict economic hardship on dairy producers in any one region to benefit others.

It is sensitive to the need for attracting supplemental milk supplies to regions of the country that occasionally face production deficits.

These are some of the reasons that most of the dairy producing regions of the country support Option 1-A for the regional pricing differentials for fluid milk.

Under the November 3, 1997, court decision in *Minnesota Milk Producers, et al. v. Dan Glickman*, the Secretary of Agriculture would be required to end the Class I differentials in the milk marketing order system. If this decision stands, it will throw the entire milk system into chaos threatening the continued existence of thousands of dairy farms nationwide.

Appealing the court's ruling is in the best interest of milk producers and consumers across the country.

We look forward to your comments and to working closely with you on the federal order reform process.

Sincerely,

JIM M. JEFFORDS.

U.S. SENATE,

Washington, DC, October 10, 1997.

Hon. DAN GLICKMAN,  
Secretary, U.S. Department of Agriculture,  
Washington, DC.

DEAR SECRETARY GLICKMAN: In reviewing the various options for the pricing of Class 1 fluid milk, it is clear that Option 1-A is the most viable and economically sound approach to the future pricing of fluid milk.

Option 1-A reflects good public policy necessary for effective milk marketing order reform. Our support for Option 1-A is based upon a number of important factors: It recognizes the transportation costs involved in moving fluid milk from the farm to the consumer; it takes into account the importance of balancing the supply and demand for milk, ensuring adequate production to meet all fluid milk needs; it recognizes the costs of producing and marketing milk and, therefore, does not inflict economic hardship on dairy producers in any one region to benefit others; and it is sensitive to the need for attracting supplemental milk supplies to regions of the country that occasionally face production deficits.

These are some of the reasons that most of the dairy producing regions of the country support Option 1-A for the regional pricing differentials for fluid milk.

As part of the reforms to the Basic Formula Price (BFP), we urge the Department to seriously consider partially "decoupling" fluid milk prices from the volatile cheese-based pricing system that has resulted in wide fluctuations in milk prices.

This pricing system has dramatically reduced farm milk prices and has left permanently high consumer prices. In our view, maintaining price stability is an extremely important order reform goal for both dairy farmers and consumers.

We look forward to your comments and in working closely with you on the federal order reform process.

Sincerely,

James M. Jeffords; Patrick Leahy; Susan Collins; Lauch Faircloth; Chris Dodd; Bob Graham; Alfonse D'Amato; Joe Biden; Mary L. Landrieu; Bill Roth; John Breaux; Jesse Helms; Jeff Bingaman; John F. Kerry; Tim Hutchinson; Max Cleland.

Connie Mack; Daniel P. Moynihan; John H. Chafee; Patty Murray; Joe Lieberman; Edward Kennedy; Larry E. Craig; Charles Robb; Paul Coverdell; Barbara A. Mikulski; Ron Wyden; Richard Shelby; Pete V. Domenici; Mitch McConnell; Jack Reed; Jeff Sessions.

Ernest Hollings; Olympia Snowe; Strom Thurmond; John W. Warner; Dale Bumpers; Bob Smith; Slade Gorton; Christopher Bond; Thad Cochran; Rick Santorum; Arlen Specter; John Glenn; Dirk Kempthorne; Mike DeWine; Judd Gregg; Paul S. Sarbanes.

#### MESSAGES FROM THE HOUSE

At 6:14 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, with amendments, in which it requests the concurrence of the Senate:

S. 714. An act to extend and improve the Native American Veteran Housing Loan Pilot Program of the Department of Veterans Affairs, to extend certain authorities

of the Secretary of Veterans Affairs relating to services for homeless veterans, to extend certain other authorities of the Secretary, and for other purposes.

The message also announced that the House agrees to the Senate amendment to the House amendment to the bill (S. 1139) to reauthorize the programs of the Small Business Administration, and for other purposes.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2513. An act to amend the Internal Revenue Code of 1986 to restore and modify the provision of the Taxpayer Relief Act of 1997 relating to exempting active financing income from foreign personal holding company income and to provide for the non-recognition of gain on the sale of stock in agricultural processors to certain farmers' cooperatives, and for other purposes.

H.R. 2614. An act to improve the reading and literacy skills of children and families by improving in-service instructional practices for teachers who teach reading, to stimulate the development of more high-quality family literacy programs, to support extended learning-time opportunities for children, to ensure that children can read well and independently not later than third grade, and for other purposes.

H.R. 2813. An act to waive time limitations specified by law in order to allow the Medal of Honor to be awarded to Robert R. Ingram of Jacksonville, Florida, for acts of valor while a Navy Hospital Corpsman in the Republic of Vietnam during the Vietnam conflict.

At 7:57 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 104. Joint resolution making further continuing appropriations for the fiscal year 1998, and for other purposes.

#### ENROLLED JOINT RESOLUTION SIGNED

A message from the House of Representatives, delivered by one of its reading clerks, announced that the Speaker has signed the following enrolled joint resolution:

H.J. Res. 104. Joint Resolution making further continuing appropriations for the fiscal year 1998, and for other purposes.

The enrolled joint resolution was signed subsequently by the Acting President pro tempore [Mr. ENZI].

#### ENROLLED BILLS SIGNED

At 8:50 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 813. An act to amend chapter 91 of title 18, United States Code, to provide criminal penalties for theft and willful vandalism at national cemeteries.

S. 1377. An act to amend the act incorporating the American Legion to make a technical correction.

H.R. 1747. An act to amend the John F. Kennedy Center Act to authorize the design and construction of additions to the parking garage and certain site improvements, and for other purposes.

The enrolled bills were signed subsequently by the Acting President pro tempore [Mr. ENZI].

#### MEASURES REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 2614. An act to improve the reading and literacy skills of children and families by improving in-service instructional practices for teachers who teach reading, to stimulate the development of more high-quality family literacy programs, to support extended learning-time opportunities for children, to ensure that children can read well and independently not later than third grade, and for other purposes; to the Committee on Labor and Human Resources.

Pursuant to the order of the Senate of November 9, 1997, the following bill was referred to the Committee on Commerce, Science, and Transportation for the consideration of matters within its jurisdiction for a period not to exceed 10 calendar days:

S. 1216. A bill to approve and implement the OECD Shipbuilding Trade Agreement.

Pursuant to the order of the Senate of November 9, 1997, the following bill was discharged from the Committee on Commerce, Science, and Transportation and referred to the Committee on Finance:

S. 629. A bill entitled the "OECD Shipbuilding Agreement Act."

#### MEASURE READ THE FIRST TIME

The following bill was read the first time:

H.R. 2513. An act to amend the Internal Revenue Code of 1986 to restore and modify the provision of the Taxpayer Relief Act of 1997 relating to exempting active financing income from foreign personal holding company income and to provide for the non-recognition of gain on the sale of stock in agricultural processors to certain farmers' cooperatives.

#### REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. McCAIN, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

H.R. 1271. A bill to authorize the Federal Aviation Administration's research, engineering, and development programs for fiscal years 1998 through 2000, and for other purposes (Rept. No. 105-152).

#### INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. TORRICELLI:

S. 1493. A bill to amend section 485(f)(1)(F) of the Higher Education Act of 1965 to provide for the disclosure of all criminal incidents that manifest evidence of prejudice

based on race, gender, religion, sexual orientation, ethnicity, or disability; to the Committee on Labor and Human Resources.

By Mr. MACK (for himself, Mr. LEVIN, Mr. THURMOND, Mr. GRAHAM, and Mr. KYL):

S. 1494. A bill to empower States with authority for most taxing and spending for highway programs and mass transit programs, and for other purposes; to the Committee on Finance.

By Mr. LEVIN (by request):

S. 1495. A bill to amend section 7703 of title 5, United States Code, to strengthen the ability of the Office of Personnel Management to obtain judicial review to protect the merit system, and for other purposes; to the Committee on Governmental Affairs.

By Mr. DASCHLE:

S. 1496. A bill to remove inequities between Congressional and contract employees regarding access to health insurance; to the Committee on Governmental Affairs.

By Mr. LAUTENBERG:

S. 1497. A bill to release contributors of ordinary trash and minor amounts of hazardous substances from litigation under Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and for other purposes; to the Committee on Environment and Public Works.

By Mr. DORGAN (for himself, Mr. LAUTENBERG, Mr. BUMPERS, Mr. CONRAD, and Mr. WELLSTONE):

S. 1498. A bill to require States to adopt laws prohibiting open alcoholic containers in automobiles; to the Committee on Environment and Public Works.

By Mrs. BOXER:

S. 1499. A bill to amend the title XXVII of the Public Health Service Act and other laws to assure the rights of enrollees under managed care plans; to the Committee on Labor and Human Resources.

By Mr. AKAKA:

S. 1500. A bill to amend the Hawaii Tropical Forest Recovery Act to establish voluntary standards for certifying forest products cultivated, harvested, and processed in tropical environments in Hawaii and to grant a certification for Hawaii tropical forest products that meet the voluntary standards, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. JEFFORDS:

S. 1501. A bill to amend the Employee Retirement Income Security Act of 1974 to improve protection for workers in multiemployer pension plans; to the Committee on Labor and Human Resources.

By Mr. COATS (for himself, Mr. LIEBERMAN, Mr. BROWNBACK, Mr. GREGG, and Ms. LANDRIEU):

S. 1502. A bill entitled the "District of Columbia Student Opportunity Scholarship Act of 1997"; considered and passed.

By Mr. WELLSTONE:

S. 1503. A bill to protect the voting rights of homeless citizens; to the Committee on Rules and Administration.

By Mr. GRAHAM (for himself, Mr. MACK, Mr. KENNEDY, Mr. ABRAHAM, and Ms. MOSELEY-BRAUN):

S. 1504. A bill to adjust the immigration status of certain Haitian nationals who were provided refuge in the United States; to the Committee on the Judiciary.

By Mr. JEFFORDS:

S. 1505. A bill to make technical and conforming amendments to the Museum and Library Services, and for other purposes; considered and passed.

By Mr. MCCAIN (for himself, Mr. BRYAN, and Mr. ROTH):

S. 1506. A bill to amend the Professional Boxing Safety Act (P.L. 104-272); considered and passed.

By Mr. THURMOND:

S. 1507. A bill to amend the National Defense Authorization Act for Fiscal Year 1998 to make certain technical corrections; considered and passed.

By Mr. LOTT (for himself, Mr. DASCHLE, and Mr. WARNER):

S. 1508. A bill to authorize the Architect of the Capitol to construct a Capitol Visitor Center under the direction of the United States Preservation Commission, and for other purposes; to the Committee on Rules and Administration.

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 1509. A bill to authorize the Bureau of Land Management to use vegetation sales contracts in managing land at Fort Stanton and certain nearby acquired land along the Rio Bonita in Lincoln County, New Mexico; to the Committee on Energy and Natural Resources.

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 1510. A bill to direct the Secretary of the Interior and the Secretary of Agriculture to convey certain lands to the county of Rio Arriba, New Mexico; to the Committee on Energy and Natural Resources.

By Mr. THURMOND:

S. 1511. A bill to amend section 3165 of the National Defense Authorization Act for Fiscal Year 1998 to clarify the authority in the section; considered and passed.

By Mr. LAUTENBERG (for himself, Mr. D'AMATO, Mr. MOYNIHAN, and Mr. TORRICELLI):

S. 1512. A bill to amend section 659 of title 18, United States Code; to the Committee on the Judiciary.

#### SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Ms. SNOWE:

S. Res. 150. A resolution to express the sense of the Senate that if a new \$1 coin is minted, the Secretary of the Treasury should be authorized to mint and circulate \$1 coins bearing a likeness of Margaret Chase Smith; to the Committee on Labor and Human Resources.

By Mr. WARNER (for himself and Mr. FORD):

S. Res. 151. A resolution to amend the Standing Rules, of the Senate to require the Committee on Rules and Administration to develop, implement, update as necessary a strategic planning process for the functional and technical infrastructure support of the Senate; considered and agreed to.

By Mr. LOTT (for himself and Mr. DASCHLE):

S. Res. 152. A resolution to direct the Senate Legal Counsel to appear as amicus curiae in the name of the Senate in City of New York, et al. v. William Clinton, et al., and related cases; considered and agreed to.

S. Res. 153. A resolution to authorize production of Senate documents and representation by Senate Legal Counsel in the of Sherry Yvonne Moore v. Capitol Guide Board; considered and agreed to.

S. Res. 154. A resolution to authorize representation by Senate Legal Counsel; considered and agreed to.

By Mrs. HUTCHISON (for herself, Mrs. MURRAY, Ms. SNOWE, Mrs. FEINSTEIN,

Mrs. BOXER, Ms. MIKULSKI, Ms. MOSELEY-BRAUN, and Ms. COLLINS):

S. Con. Res. 67. A concurrent resolution expressing the sense of Congress that the museum entitled "The Women's Museum: An Institute for the Future" in Dallas, Texas, be designated as a millennium project for the United States; considered and agreed to.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. TORRICELLI:

S. 1493. A bill to amend section 485(f)(1)(F) of the Higher Education Act of 1965 to provide for the disclosure of all criminal incidents that manifest evidence of prejudice based on race, gender, religion, sexual orientation, ethnicity, or disability; to the Committee on Labor and Human Resources.

THE CAMPUS HATE CRIMES RIGHT TO KNOW ACT

Mr. TORRICELLI. Mr. President, every year, over 14 million students and their parents agonize over where to attend college. They spend months researching schools and visiting campuses in an effort to find the perfect fit. At the top of the list of characteristics students and their parents look for in a school is a safe learning environment. Information is the key to choosing such an environment. Under current law, students and their parents do not have access to all the information necessary to make an informed choice.

Current law requires colleges and universities to report statistics on crimes that occur on their campuses. However, colleges are only required to report those hate crimes that result in murder, rape, or aggravated assault. These three categories of crimes only represent 16 percent of the total number of hate crimes that occur on college campuses every year. Vandalism, harassment, and simple assault comprise the vast majority of hate crimes. Under current law, however, colleges are not required to report these crimes.

Current law also does not require colleges and universities to report hate crimes against women and the disabled. Thus, parents of daughters or disabled students have no idea whether the college to which they will send their children is safe.

Students and parents have the right to information about all hate crimes committed on their prospective college campuses. My bill, the Campus Hate Crimes Right to Know Act of 1997, will ensure that they have access to that information.

The Campus Hate Crimes Right to Know Act does two very important things: it expands college reporting requirements to include all hate crimes, not just those that result in murder, rape and aggravated assault; and, it includes gender and disability in the class protected by the reporting requirement. Under current law, colleges need only report hate crimes motivated by race, religion, sexual orientation, and ethnicity. My bill will cover these

four categories plus gender and disability.

Our Nation's college campuses should be a refuge from crime, particularly heinous attacks motivated by hatred and bigotry. The disturbing truth, however, is that college campuses are often fertile ground for bigotry. A recent study done by the Maryland Prejudice Institute reported that 25 percent of minority college students attending predominantly white colleges have been victimized by hate. In 1996, 90 incidents of anti-Semitic activity on college campuses were reported to the Anti-Defamation League.

In September 1996, 60 Asian-American college students at a California university received threats from another student via e-mail messages threatening that all Asian-Americans would be hunted and killed. Under current law, this offense would not appear on a campus crime report.

The Campus Hate Crimes Right to Know Act will provide students and their parents with vital information so that they may better protect themselves against such crimes. It will also encourage college officials to raise awareness about these crimes and develop programs and strategies to combat them.

The damage done by hate crimes goes beyond physical injury. Hate crimes, whether they take the form of painting a swastika on someone's dorm room door or gang beating a student believed to be gay, leave the victim feeling fearful, vulnerable, and isolated.

Our children are our future. Their college years are among the most exciting and formative of their lives. By introducing the Campus Hate Crimes Right to Know Act of 1997, I hope to empower students and parents with all of the information necessary to ensure that those years are as safe as possible.

Mr. President, I ask unanimous consent at this time that the text of the Campus Hate Crimes Right to Know Act of 1997, in its entirety, be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1493

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. DISCLOSURE.

(a) **SHORT TITLE.**—This section may be cited as the "Campus Hate Crimes Right to Know Act of 1997".

(b) **FINDINGS.**—Congress finds that—

(1) the incidence of violence on college campuses based on race, gender, religion, sexual orientation, ethnicity, or disability poses a serious national problem;

(2) such violence disrupts the tranquility and safety of campuses and is deeply divisive;

(3) hate crimes include crimes in which the perpetrator intentionally selects a victim because of the actual or perceived race, gender, religion, sexual orientation, ethnicity, or disability of the victim;

(4) existing Federal reporting requirements only require colleges and universities to report hate crimes that result in murder, rape, or aggravated assault;

(5) existing reporting requirements are inadequate to deal with the problem of hate crimes since the vast majority of hate crimes that occur on college campuses do not result in murder, rape, or aggravated assault;

(6) existing reporting requirements are inadequate because the requirements do not require colleges and universities to report hate crimes that target victims because of the victims' gender or disability;

(7) omitting certain hate crimes from official campus crime reports may result in a false sense of security among students and apathy from campus officials;

(8) omitting certain hate crimes from official campus crime reports deprives students and parents of the students of vital information necessary to protect the students against such crimes and to make informed decisions in choosing a college or university;

(9) requiring postsecondary institutions to report all hate crimes that occur on their campuses will provide students and parents of the students with vital information so that the students may better protect themselves against such crimes; and

(10) requiring postsecondary institutions to report all hate crimes that occur on their campuses will encourage college officials to raise awareness about such crimes and develop programs and strategies to combat such crimes.

(c) **AMENDMENT.**—Section 485(f)(1)(F) of the Higher Education Act of 1965 (20 U.S.C. 1092(f)(1)(F)) is amended—

(1) by redesignation clauses (i) through (vi) as subclauses (I) through (VI), respectively;

(2) by striking "Statistics" and inserting "(I) Statistics"; and

(3) by adding at the end the following: "(ii) Statistics concerning the occurrence on campus, during the most recent calendar year, and during the 2 preceding calendar years for which data are available, of all criminal incidents that manifest evidence of prejudice based on actual or perceived race, gender, religion, sexual orientation, ethnicity, or disability that are reported to campus security authorities or local police agencies. The statistics shall be collected and reported according to category of prejudice."

By Mr. LEVIN (by request):

S. 1495. A bill to amend section 7703 of title 5, United States Code, to strengthen the ability of the Office of Personnel Management to obtain judicial review to protect the merit system, and for other purposes; to the Committee on Governmental Affairs.

THE MERIT SYSTEM PROTECTION ACT OF 1997

Mr. LEVIN. Mr. President, as the ranking member of the International Security, Proliferation, and Federal Services Subcommittee of the Governmental Affairs Committee, the subcommittee having jurisdiction over civil service issues, I am introducing today, at the request of the administration, legislation that would make two changes to the Civil Service Reform Act of 1978. I introduce this legislation as a courtesy to the administration without taking a position on its merits so that it can be given proper

consideration and so that concerned parties can have the opportunity to comment on its potential effects.

The two changes to the Civil Service Reform Act relate to the authority of the Office of Personnel Management [OPM] to seek judicial review of Federal personnel management decisions issued by the Merit Systems Protection Board [MSPB] and by arbitrators. The first change would allow OPM 60 days, rather than the 30 days under current law, to file a petition for review of an MSPB final decision with the U.S. Court of Appeals for the Federal Circuit. The time available for employees to appeal would not be affected by this change.

The second change would eliminate the discretion of the Federal circuit to decide whether to hear OPM petitions for review. Currently, OPM must file a petition with the Federal circuit and ask the court to hear its appeal. If enacted, this change would require the Federal circuit to hear every appeal from a final MSPB decision brought by OPM.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1495

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. MERIT SYSTEM JUDICIAL REVIEW.

Section 7703 of title 5, United States Code, is amended—

(1) in subsection (b)(1) by striking "provision of law," and inserting "provision of law except subsection (d)."; and

(2) in subsection (d)—

(A) in the first sentence, by inserting after "filing" the following: ", within 60 days after the date the Director received notice of the final order or decision of the board."; and

(B) by striking the last sentence.

#### SEC. 2. EFFECTIVE DATE.

The amendments made by section 1 shall take effect on the date of enactment of this Act, and apply to any suit, action, or other administrative or judicial proceeding pending on such date or commenced on or after such date.

#### SECTION-BY-SECTION ANALYSIS

Section 1 would eliminate the discretion of the Federal Circuit to decide whether to hear OPM petitions for review. Currently, OPM must file a petition with the Federal Circuit and ask the Court to hear its appeal. This section requires the Federal Circuit to hear every appeal from a final MSPB decision brought by OPM.

Section 2 would allow OPM 60 days, rather than the 30 days under current law, to file a petition for review of an MSPB final decision with the United States Court of Appeals for the Federal Circuit. The time available for employees to appeal would not be affected by this change.

By Mr. DASCHLE:

S. 1496. A bill to remove inequities between congressional and contract employees regarding access to health

insurance; to the Committee on Governmental Affairs.

THE CONGRESSIONAL CONTRACTOR HEALTH INSURANCE EQUITY ACT

Mr. DASCHLE. Mr. President, today I am reintroducing legislation to provide employees of congressional contractors the same access to health coverage as other congressional workers. This bill should have passed last year, when I was thwarted in an effort to pass this measure as an amendment to the Treasury-Postal Appropriations bill.

Instead, another 12 months have gone by in which workers in this very building lack health insurance while you and I and our staffs have access to a wide variety of subsidized health plans.

In fact, about 1,900 employees of companies that contract with the Federal Government do not have employer-sponsored health insurance. Efforts to privatize even more services previously performed by Federal Government workers will exacerbate this situation.

Who are these contractors? They include House restaurant and mailroom staff, electronics technicians, day care providers, accountants, data processors, and construction and maintenance workers.

They are like you and me and others with whom we work side-by-side in the Halls of the Congress, except they don't have the kind of health security we take for granted.

As we devise new ways to extend health coverage to uninsured children and workers between jobs, how can we in Congress allow individuals who prepare our meals, repair our equipment, maintain our buildings, and care for our children go without the same coverage that we provide our staff?

In good conscience, we can't.

That's why I am introducing a bill that would require firms that contract with Congress to offer insurance to their employees. This requirement would apply to firms that employ 15 or more workers, and that have Federal contracts worth over \$75,000.

These contractors could buy a private health plan, or they could select a plan from FEHBP. In either case, they would be required to contribute to employees' premiums, just as the Federal Government contributes to its workers' coverage.

This would ensure that everyone working full-time for Congress has access to high quality, comprehensive coverage.

This kind of action is not without precedent.

Several years ago, concern about high turnover among Senate daycare employees led the Senate to give these contract workers FEHBP coverage.

And Congress has a long history of taking action to guarantee fair working conditions for contract workers. For 65 years, the Davis-Bacon Act and other similar measures have guaran-

teed competitive wages to Federal contract workers.

This bill complements those efforts.

But passing of this measure is not just a humane gesture. It is a practical one.

Health costs for uninsured workers who become ill are simply shifted onto others. They are shifted onto public programs like Medicaid; to doctors and hospitals in the form of charity care; and into the premiums paid by those with access to private coverage.

Clearly, we're all paying, one way or another, for those who have no insurance. And we're paying more than necessary. The uninsured often forgo preventive care and early intervention only to end up in an emergency room or hospital bed instead.

Congress should not tolerate this kind of inefficient cost shifting. We should be setting an example for the rest of the Government and the private sector.

Some may say this measure will reduce the cost savings from privatization. I believe Congress should contract out services performed more efficiently by the private sector. But reducing benefits like health coverage to save money is penny wise and pound foolish. And even if outsourcing is the wave of the future, Congress should set an example by protecting rights and benefits of those caught in the transition.

Cutting costs by cutting benefits may be easy, but it's not efficient, and it's not responsible. Congress should not save money by denying workers a basic benefit.

For many years now, Members of Congress have spoken on the floor about the need to extend coverage to the uninsured. We all recognize there can be no financial security without health security.

Let's show the country that what is good for Members of Congress and their employees is also good for the contractors who serve us.

I hope my colleagues will join me in support of this bill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1496

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Congressional Contractor Health Insurance Equity Act".

**SEC. 2. DEFINITIONS.**

For purposes of this Act:

(1) **CONTRACT.**—The term "contract" means any contract for items or services or any lease of Government property (including any subcontract of such contract or any sublease of such lease)—

(A) the consideration with respect to which is greater than \$75,000 per year,

"(B) with respect to a contract for services, requires at least 1000 hours of services, and

(B) entered into between any entity or instrumentality of the legislative branch of the Federal Government and any individual or entity employing at least 15 full-time employees.

(2) **EMPLOYEE.**—The term "employee" has the meaning given such term under section 3(6) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(6)).

(3) **ENTITY OF THE LEGISLATIVE BRANCH.**—The term "entity of the legislative branch" includes the following:

- (A) The House of Representatives.
- (B) The Senate.
- (C) The Capitol Guide Service.
- (D) The Capitol Police.
- (E) The Congressional Budget Office.
- (F) The Office of the Architect of the Capitol.
- (G) The Office of the Attending Physician.
- (H) The Office of Compliance.

(4) **GROUP HEALTH PLAN.**—The term "group health plan" means any plan or arrangement which provides, or pays the cost of, health benefits that are actuarially equivalent to the benefits provided under the standard option service benefit plan offered under chapter 89 of title 5, United States Code.

(5) **INSTRUMENTALITY OF THE LEGISLATIVE BRANCH.**—The term "instrumentality of the legislative branch" means the following:

- (A) The General Accounting Office.
- (B) The Government Printing Office.
- (C) The Library of Congress.

**SEC. 3. GENERAL REQUIREMENTS CONCERNING CONTRACTS COVERED UNDER THIS ACT.**

(a) **IN GENERAL.**—Any contract made or entered into by any entity or instrumentality of the legislative branch of the Federal Government shall contain provisions that require that—

(1) all persons employed by the contractor in the performance of the contract or at the location of the leasehold be offered health insurance coverage under a group health plan; and

(2) with respect to the premiums for such plan with respect to each employee—

(A) the contractor pay a percentage equal to the average Government contribution required under section 8906 of title 5, United States Code, for health insurance coverage provided under chapter 89 of such title; and

(B) the employee pay the remainder of such premiums.

(b) **OPTION TO PURCHASE.**—

(1) **IN GENERAL.**—Notwithstanding section 8914 of title 5, United States Code, a contractor to which subsection (a) applies that does not offer health insurance coverage under a group health plan to its employees on the date on which the contract is to take effect, may obtain any health benefits plan offered under chapter 89 of title 5, United States Code, for all persons employed by the contractor in the performance of the contract or at the location of the leasehold. Any contractor that exercises the option to purchase such coverage shall make any Government contributions required for such coverage under section 8906 of title 5, United States Code, with the employee paying the contribution required for such coverage for Federal employees.

(2) **CALCULATION OF AMOUNT OF PREMIUMS.**—Subject to paragraph (3)(B), the Director of the Office of Personnel Management shall calculate the amount of premiums for health benefits plans made available to contractor employees under paragraph (1) separately

from Federal employees and annuitants enrolled in such plans.

(3) REVIEW BY OFFICE OF PERSONNEL MANAGEMENT.—

(A) ANNUAL REVIEW.—The Director of the Office of Personnel Management shall review at the end of each calendar year whether the nonapplication of paragraph (2) would result in higher adverse selection, risk segmentation in, or a substantial increase in premiums for such health benefits plans. Such review shall include a study by the Director of the health care utilization and risks of contractor employees. The Director shall submit a report to the President, the Speaker of the House of Representatives, and the President pro tempore of the Senate which shall contain the results of such review.

(B) NONAPPLICATION OF PARAGRAPH (2).—Beginning in the calendar year following a certification by the Director of the Office of Personnel Management under subparagraph (A) that the nonapplication of paragraph (2) will not result in higher adverse selection, risk segmentation in, or a substantial increase in premiums for such health benefits plans, paragraph (2) shall not apply.

(4) REQUIREMENT OF OFM.—The Director of the Office of Personnel Management shall take such actions as are appropriate to enable a contractor described in paragraph (1) to obtain the health insurance described in such paragraph.

(C) ADMINISTRATIVE FUNCTIONS.—

(1) IN GENERAL.—The office within the entity or instrumentality of the legislative branch of the Federal Government which administers the health benefits plans for Federal employees of such entity or instrumentality shall perform such tasks with respect to plan coverage purchased under subsection (b) by contractors with contracts with such entity or instrumentality.

(2) WAIVER AUTHORITY.—Waiver of the requirements of this Act may be made by such office upon application.

SEC. 4. EFFECTIVE DATE.

(a) IN GENERAL.—This Act shall apply with respect to contracts executed, modified, or renewed on or after January 1, 1998.

(b) TERMINATION.—

(1) IN GENERAL.—This Act shall not apply on and after October 1, 2002.

(2) TRANSITION RULE.—In the case of any contract under which, pursuant to this Act, health insurance coverage is provided for calendar year 2002, the contractor and the employees shall, notwithstanding section 3(a)(2), pay 1½ of the otherwise required monthly premium for such coverage in monthly installments during the period beginning on January 1, 2002, and ending before October 1, 2002.

By Mr. LAUTENBERG:

S. 1497. A bill to release contributors of ordinary trash and minor amounts of hazardous substances from litigation under Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and for other purposes; to the Committee on Environment and Public Works.

THE EQUITY AND PUBLIC INVOLVEMENT IN SUPERFUND ACT OF 1997

Mr. LAUTENBERG. Mr. President, today I am introducing the Equity and Public Involvement in Superfund Act of 1997 [TEPI].

Hazardous sites, the legacy of our industrial growth, litter the landscape across America. Many of those sites

are toxic and pose real threats to the groundwater, the air and our water, and accordingly, our health and the health of the environment. The worst of those sites are so foul and so polluted that they are beyond the capacity of most States to handle. These sites, placed on the national priorities list for clean up under the Comprehensive Environmental Response Compensation, and Liability Act commonly known as Superfund can take years to clean up and cost tens of millions of dollars to clean up. They are ticking time bombs that threaten the health and survival of entire communities.

Over the years the hazardous waste clean up program has been heavily criticized as being too slow, involving too much litigation and too expensive. Congress addressed many of those problems in 1986, and Administrator Carol Browner of the Environmental Protection Agency [EPA] has instituted many reforms to speed up the cleanup program. The results are dramatic. EPA has completed cleanup construction at 498 sites and more than 500 additional sites are in construction. Taxpayers have saved \$12 billion because polluters responsible for these sites are performing or funding approximately 70 percent of Superfund long-term cleanups. But, problems remain, partly because big corporate polluters are using the present law to drag tiny merchants and other parties who are minor polluters, or innocents who merely sent solid waste to a municipal landfill, into expensive lawsuits.

A recent story televised by "60 Minutes" on the Keystone landfill in Pennsylvania showed the scope of the problem. The story centered on Barbara Williams, the owner of the Sunny Ray Restaurant in Gettysburg, PA, who was being sued by the sites' toxic polluters for \$75,000 because of the mashed potatoes she sent to the dump. Tiny gift stores, and other small businesses were dragged into a Superfund suit because they had sent regular trash to the Keystone Landfill.

EPA Administrator Carol Browner is aware of this problem and has been trying to do something about it. She has offered expedited settlements, known as de minimis settlements, to more than 20,000 parties nationwide whose contribution to Superfund sites is comparatively small. She has also offered settlements for as little as \$1.00, known as de micromis settlements, to parties whose contributions of hazardous waste to a site are minuscule, but whose payments to lawyers have been immense.

While EPA has done an admirable job at ameliorating the aspect of the law that allows contribution litigation to happen, and indeed has deterred instances of egregious litigation, EPA can only do so much within the confines of the law and within the context of litigation. The law needs to be

changed to put an end to these harassment suits. Since 1993, the Senate Environment and Public Works Committee repeatedly has tried to bridge the differences that exist on Superfund and send a reform bill to the President.

Mr. President, as the ranking Democratic member of the Superfund Subcommittee, I have spent many hours over the past several months with the Chairman of the Environment and Public Works Committee, Senator CHAFEE, and the Superfund Subcommittee Chairman Senator SMITH, Administrator Browner and Senator BAUCUS, the ranking Democratic member of the full committee. We've been negotiating a broad-based reform of the Nation's hazardous waste cleanup program. We have narrowed the differences between our views of how to fix Superfund. On October 22, 1997, Senators CHAFEE and SMITH made a global proffer on each title of their chairman's mark. The next week, Senator BAUCUS and I made a counter to their proffer that made significant concessions on each title of the bill.

We thought progress was being made. However, instead of responding to our last offer, the Republicans decided to end negotiations, at least for now.

Mr. President, Superfund reform has taken too long and, as a result municipalities, small businesses and communities in and around Superfund and brownfields sites are paying a high price for our inability to address their needs. It has long been my position that we should move ahead in areas where we can agree, and not hold our citizens and communities hostage to remaining disagreements. Earlier this year, as I have before, I introduced S. 18, the Brownfields and Environmental Cleanup Act. I have also introduced S. 1317, the Environmental Health Protection Act, to move ahead to protect the health of citizens living near Superfund sites. These are non-controversial bills that could pass without objection. It is unacceptable and unconscionable that we would continue to leave citizens subject to illness—and perhaps even death, by cancer—when we can take steps now to reduce those risks. As a companion to those measures, today I am introducing the Equity and Public Involvement Act to address liability issues that enjoy virtual universal support. This bill addresses those Superfund failings of which most constituents complain, and contains solutions that have been agreed on by both Republicans and Democrats for years.

Mr. President, the bill I am introducing today will bring relief to the thousands of small businesses and municipalities who have been swept into the Superfund litigation net by high-paid lawyers for big corporate polluters, even though those small businesses, churches and charities sent only municipal solid waste, common garbage, to the site. The provisions exempt individual homeowners, small

business, and small nonprofits who have disposed only ordinary household trash. The provisions also limit the liability of big business and municipalities who have disposed household trash, consistent with an EPA draft policy, by allowing parties to cash-out on the basis of an easy-to-calculate formula that depends largely upon the volume of the trash these entities disposed, and the type of cleanup taking place at the site. Site did not have toxic pollutants driving up the cost of clean up. Plain and simple, these provisions prevent polluters from shifting cleanup costs to local taxpayers.

The bill also provides protection for other businesses who sent small amounts of toxic waste to sites. Businesses which sent very small amounts—less than two barrels—will be exempt from lawsuits. Those who sent small amounts, but more than two barrels, will be subject to an expedited settlement process. For those small contributors and larger contributors of toxic waste, the amount they will have to pay will be cushioned by their ability to pay.

The bill also protects landowners who live next door to hazardous waste sites by clarifying that they are not liable parties under the Superfund statute.

In addition, the bill expands the public's ability to participate in the critical decisions concerning the clean-up in their neighborhoods. Throughout the negotiations, we have met extensively with community representatives and stakeholders on Superfund to learn what works and what doesn't.

Stakeholders meetings with companies involved in multiple Superfund sites and cleanups at Department of Energy and Defense facilities showed that when communities near sites are involved early in the process, remedies are selected more quickly and there is more trust in the level of cleanup.

Community representatives argued passionately for the right to be fully informed and involved in these critical decisions. To respond to this concern, this bill includes provisions that significantly increase community input at all Superfund sites and in all aspects of the process of remedying the ill effects of toxic sites. Included in this bill are provisions for technical assistance grants, known as TAG's, to communities to hire technical experts to help them interpret the often highly technical data. These provisions enjoy broad support.

Mr. President, the liability reform provisions I have outlined and the community participation programs I have described are not controversial. Many were included in S. 8, a bill that Senators CHAFEE and SMITH introduced with significant Republican support on the first day of the Senate session. However, that bill has not moved and negotiations on a broader bill have bro-

ken down, at least for the moment. Therefore, I think it is appropriate for the Congress to move ahead to reform the law where we can agree, and continue to discuss and negotiate the issues on which there remains disagreement.

The bill I am introducing today is simple: It frees the hostages of stalled Superfund negotiations—the small businesses, churches, municipalities and their taxpayers, as well as neighboring landowners caught up in Superfund liability who have been waiting for years for a Superfund reform bill. They should not be held hostage to forces intent on repealing the principle of polluter pays and weakening cleanup of our natural resources who have not let a bill go forward because they can't get their way on those issues.

Mr. President, this bill does not address all of the issues on which we could move forward today with virtual unanimous support. But, in conjunction with other legislation I have introduced, it could solve many of the worst of Superfund's problems.

This fall I introduced S. 1317, the Environmental Health Protection Act, to expand the public health aspects of hazardous waste cleanup. That bill allows the Agency for Toxic Substances and Disease Registry [ATSDR] to study any location where there is concern that hazardous wastes threaten public health and requires that ATSDR work closely with State and local health officials in making its assessment.

ATSDR is frequently criticized because its health assessments are completed too late in the process to be of any real value to local officials struggling to manage the health impact of a hazardous waste site on a community. S. 1317 changes the way EPA and the health authorities do their job. It requires EPA to notify local and State health officials early in the process that an investigation is commencing and to better coordinate their activities with local authorities so that EPA's proposed remedy better reflects local conditions and needs.

Also, S. 1317 requires EPA to directly involve State and local health officials in deciding where and how to take samples at hazardous waste sites. State and local health officials are often the frontline experts. They have important first-hand information on how a toxic waste dump affects their community. Working with EPA, they can better determine and analyze possible health problems in a community and whether that pattern arises from a toxic waste dump. With this information, EPA can zero-in on those areas for additional sampling and further studies as well as design a site appropriate remedy that meets the special circumstances of the affected community.

There is absolutely no reason why the Congress should not move ahead to approve S. 1317 now and every reason

why we should. It would reduce health risks to our citizens and I know of no one who objects to it.

On the first day of this Congress, last January, I introduced S. 18, the Brownfields and Environmental Cleanup Act of 1997. This bill would make Federal grants for revolving loan funds used for remediation of brownfields available throughout the country. It would also protect innocent landowners and prospective purchasers of brownfield sites. Mr. President, if we could free this hostage, I know the Congress could move quickly to agree on brownfields legislation.

Mr. President, we appear to be at a standoff in Superfund negotiations for the moment. If that remains the case next January when we reconvene, I hope the Congress will move ahead to enact this legislation, along with my brownfields, community participation and environmental health protection bills. I also think we should extend the Superfund excise and corporate income tax. The tax, which expired in 1995, brings in sufficient revenue to cover the entire fiscal year 1998 Superfund appropriation. Without the tax, industry is saving \$26 million a week—an amount sufficient enough to encourage some of those businesses to oppose any reform if the cost of reform is reinstating the tax. Mr. President, that tax must be reinstated.

Mr. President, on the first days of the session this year, Senator BAUCUS and I joined EPA Administrator Carol Browner to urge the Senate to pass a brownfields bill immediately and not hold it hostage to a broader Superfund bill. I said at that time:

We have a long way to go before we get a bill that enjoys bipartisan support, and that can be signed into law. We can't wait. We need to do something now, not only to help the environment, but to assist those urban areas which are struggling with economic recovery. . . .

But that bill, because of the number of issues in controversy, will not pass quickly. And while many people believe that Superfund can only be passed as a comprehensive package, last year we did pass some Superfund provisions separately for lenders, fiduciaries and the Department of Defense. . . .

In my view, we ought to sit down and quickly pass a brownfields bill.

The sooner we do, the sooner we may be able to convert thousands of abandoned industrial sites into engines of economic development.

Mr. President, those words are even more true today than they were in January. We've let an entire year go by, without results. Let's pass this bill, the brownfields legislation, and community participation and environmental health programs. Let's make Superfund a shield to protect our communities, not a sword used to hold them hostage.

Mr. President, I look forward to continuing negotiations with Senators CHAFEE, SMITH, and BAUCUS next year to address the broader issues. But with

a full year behind us, I believe we should serve up to our constituents what we can now deliver.

Mr. President, I ask unanimous consent that a copy of the bill be inserted into the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1497

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the "Equity and Public Involvement in Superfund Act of 1997".

(b) **TABLE OF CONTENTS.**—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

**TITLE I—ENHANCED COMMUNITY PARTICIPATION**

Sec. 101. Definitions.

Sec. 102. Public participation generally.

Sec. 103. Improvement of public participation in the superfund decision-making process; local community advisory groups; technical assistance grants.

Sec. 104. Waste Site Information Offices.

Sec. 105. Technical outreach services for communities.

Sec. 106. Recruitment and training program.

Sec. 107. Priority site evaluation.

Sec. 108. Understandable presentation of materials.

Sec. 109. No impediment to response actions.

**TITLE II—LIABILITY**

Sec. 201. Liability exemptions and limitations.

Sec. 202. Expedited final settlement.

**TITLE I—ENHANCED COMMUNITY PARTICIPATION**

**SEC. 101. DEFINITIONS.**

(a) **IN GENERAL.**—Section 117 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9617) is amended—

(1) by redesignating subsections (a) through (e) as subsections (b) through (f), respectively; and

(2) by inserting after the section heading the following:

“(a) **DEFINITIONS.**—In this section:

“(1) **AFFECTED COMMUNITY.**—The term ‘affected community’ means a group of 2 or more individuals who may be affected by the release or threatened release of a hazardous substance, pollutant, or contaminant from a covered facility.

“(2) **COVERED FACILITY.**—The term ‘covered facility’ means a facility—

“(A) that has been listed or proposed for listing on the National Priorities List;

“(B) at which the President is undertaking a removal action that is expected to exceed—

“(i) in duration, 1 year; or

“(ii) in cost, the funding limit established under section 104(c)(1); or

“(C) with respect to which the Administrator of ATSDR has accepted a petition requesting a health assessment under section 104(i)(6)(B), and that is under investigation by the Administrator of the Environmental Protection Agency under subsection (a) or (b) of section 104.

“(3) **WASTE SITE INFORMATION OFFICE.**—The term ‘waste site information office’ means a waste site information office established under subsection (j).”

(b) **CONFORMING AMENDMENTS.**—

(A) Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended—

(i) in section 111(a)(5) (42 U.S.C. 9611), by striking “117(e)” and inserting “117(f)”;

(ii) in section 113(k)(2)(B) (42 U.S.C. 9613)—

(I) in clause (iii), by striking “117(a)(2)” and inserting “117(b)(2)”; and

(II) in the third sentence, by striking “117(d)” and inserting “117(e)”.

(B) Section 2705(e) of title 10, United States Code, is amended—

(i) by striking “117(e)” and inserting “117(f)”; and

(ii) by striking “(42 U.S.C. 9617(e))” and inserting “(42 U.S.C. 9617(f))”.

**SEC. 102. PUBLIC PARTICIPATION GENERALLY.**

Section 117 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9617) (as amended by section 101(b)) is amended—

(1) in subsection (b)(2), by inserting “, adequate notice,” after “oral comments”;

(2) in the first sentence of subsection (e), by striking “major”; and

(3) by striking subsection (f) and inserting the following:

“(f) **AVAILABILITY OF RECORDS.**—

“(1) **IN GENERAL.**—Except as provided in paragraph (2), throughout all phases of a response action at a facility and without the need to file a request under section 552 of title 5, United States Code, the President shall make available to the affected community (including the recipient of a technical assistance grant (if a grant has been awarded under subsection (i)) or a community advisory group (if a community advisory group has been established)), for inspection and, subject to reasonable fees, for copying, all records in the administrative record established by the President under section 113(k).

“(2) **EXEMPT RECORDS.**—Paragraph (1) shall not apply to—

“(A) a record that is exempt from disclosure under section 552 of title 5, United States Code;

“(B) a record that would be subject to the prohibition on disclosure under section 104(e)(7) if the record were obtained under section 104; or

“(C) a record that is exchanged between parties to a dispute under this Act for the purpose of settling the dispute.”

**SEC. 103. IMPROVEMENT OF PUBLIC PARTICIPATION IN THE SUPERFUND DECISION-MAKING PROCESS; LOCAL COMMUNITY ADVISORY GROUPS; TECHNICAL ASSISTANCE GRANTS.**

Section 117 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9617) (as amended by section 101(b)(1)) is amended by adding at the end the following:

“(g) **IMPROVEMENT OF PUBLIC PARTICIPATION IN DECISIONMAKING PROCESS.**—

“(1) **VIEWS AND PREFERENCES.**—

“(A) **SOLICITATION.**—To the extent practicable, in addition to the solicitation of public comments on a proposed remedial action plan under subsection (b)(2), the President, during the response action process (including a response under subsection (h)(4)(A)), shall—

“(i) disseminate information to the local community, in particular, information concerning the effects of the facility on human health, including the effects on children and other highly susceptible or highly exposed populations;

“(ii) solicit information from the local community;

“(iii) consider the views of the local community; and

“(iv) include, in any administrative record established under section 113(k), the views of the local community and the response of the Administrator to any significant comments, criticisms, or new data submitted in a written or oral presentation.

“(B) **PROCEDURE.**—To solicit the views and concerns of the community, the Administrator may conduct, as appropriate—

“(i) face-to-face community surveys for purposes including the identification of the location of private drinking water wells, historic and current or potential use of water, and other environmental resources in the community;

“(ii) public meetings; and

“(iii) other appropriate participatory activities.

“(C) **PUBLIC MEETINGS.**—The Administrator shall give particular consideration to providing the opportunity for public meetings in advance of significant decision points in the response action process.

“(D) **CONSULTATION.**—In determining which of the procedures set forth in subparagraph (B) may be appropriate, the Administrator shall consult with a community advisory group, if 1 has been established under subsection (h), and members of the affected community.

“(E) **NOTIFICATION.**—The President shall notify the local community and local government concerning—

“(i) the schedule for commencement of construction activities at a covered facility and the location and availability of construction plans;

“(ii) the results of the any review under section 121(c) and any modifications to the selected response made as a result of the review; and

“(iii) the execution of and any revision to institutional controls being used as part of a remedial action.

“(2) **MEETINGS BETWEEN LEAD AGENCY AND POTENTIALLY RESPONSIBLE PARTIES.**—The President, on a regular basis, shall inform local government officials, Indian tribes, a local community advisory group (if any) and, to the extent practicable, interested members of the affected community of the progress and substance of technical meetings between the lead agency and potentially responsible parties regarding a covered facility.

“(3) **REMEDIAL ACTION ALTERNATIVES.**—A member of the local community may propose a remedial action alternative in the same manner as any other interested party may propose a remedial action alternative.

“(h) **COMMUNITY ADVISORY GROUPS.**—

“(1) **NOTICE.**—The President shall, to the extent practicable, provide notice of an opportunity to form a community advisory group to members of the affected community, particularly persons that are immediately proximate to or that may be or may have been affected by a release or threatened release.

“(2) **ESTABLISHMENT.**—The President shall assist in the establishment of a community advisory group for a covered facility to achieve direct, regular, and meaningful communication among members of the local community throughout the response action process—

“(A) at the request of at least 20 individuals residing in, or at least 10 percent of the population of, the area in which the facility is located;

“(B) if there is no request under subparagraph (A), at the request of any local government with jurisdiction over the facility; or

"(C) If the President determines that a community advisory group would be helpful to achieve the purposes of this Act.

"(3) RESPONSIBILITIES OF A COMMUNITY ADVISORY GROUP.—A community advisory group shall—

"(A) solicit the views of the local community on various issues affecting the development and implementation of response actions at the facility;

"(B) serve as a conduit for information between the local community and other entities represented on the community advisory group;

"(C) present the views of the local community throughout the response process; and

"(D) provide the local community reasonable notice of and opportunities to participate in the meetings and other activities of the community advisory group.

"(4) RESPONSIBILITIES OF THE PRESIDENT.—

"(A) CONSULTATION.—The President shall—

"(i) consult with the community advisory group in developing and implementing the response action for a covered facility, including consultation with respect to—

"(I) sampling, analysis, and monitoring plans and results;

"(II) assumptions regarding reasonably anticipated future land uses;

"(III) potential remedial alternatives;

"(IV) selection and implementation of removal and remedial actions (including operation and maintenance activities) and reviews performed under section 121(c); and

"(V) use of institutional controls;

"(i) encourage the Administrator of ATSDR, in cooperation with State, Indian tribe, and local public health officials, to consult with the community advisory group regarding health assessments;

"(iii) keep the community advisory group informed of progress in the development and implementation of the response action; and

"(iv) on request, provide to any person the hazard ranking score of any facility that has been scored under the hazardous ranking system, and the preliminary assessment and site inspection for the facility.

"(B) CONSIDERATION OF COMMENTS.—The President shall consider comments, information, and recommendations that the community advisory group provides in a timely manner.

"(C) CONSENSUS.—The community advisory group shall attempt to achieve consensus among its members before providing comments and recommendations to the President. If consensus cannot be reached, the community advisory group shall report or allow presentation of divergent views.

"(5) COMPOSITION OF COMMUNITY ADVISORY GROUPS.—

"(A) MEMBERS.—

"(1) MEMBERS.—The President shall, to the extent practicable, ensure that the membership of a community advisory group reflects the composition of the affected community and a diversity of interests.

"(i) REPRESENTED GROUPS.—A community advisory group for a covered facility shall include at least 1 representative of the recipients of a technical assistance grant, if any has been awarded with respect to the facility, and shall include, to the extent practicable, a person from each of the following groups:

"(I) Persons who reside or own residential property near the facility.

"(II) Persons who, although they may not reside or own property near the facility, may be affected by the facility contamination.

"(III) Local public health practitioners or medical practitioners (particularly those

who are practicing in the affected community).

"(IV) Local Indian communities that may be affected by the facility contamination.

"(V) Local citizen, civic, environmental, or public interest groups.

"(VI) Members of the local business community.

"(VII) Employees at the facility during facility operation.

"(B) LOCAL RESIDENTS.—Local residents shall, to the extent practicable, comprise a majority of the voting membership of a community advisory group.

"(C) NUMBER OF VOTING MEMBERS.—The President shall, to the extent practicable, ensure that the voting membership of the community advisory group does not exceed 20 individuals.

"(D) COMPENSATION.—A member of a community advisory group shall serve without compensation.

"(E) NONVOTING MEMBERS.—The President shall provide opportunities for representatives of the following entities to participate (as nonvoting members), as appropriate, in community advisory group meetings for purposes including providing information and technical expertise:

"(i) The Administrator.

"(ii) Other Federal agencies.

"(iii) Affected States.

"(iv) Affected Indian tribes.

"(v) Representatives of affected local governments (such as city or county governments or local emergency planning committees, and any other governmental unit that regulates land use or land use planning in the vicinity of the facility).

"(vi) Facility owners.

"(vii) Potentially responsible parties.

"(6) TECHNICAL ASSISTANCE GRANTS.—The President may award a technical assistance grant under subsection (i) to a community advisory group.

"(7) ADMINISTRATIVE SUPPORT.—The President, to the extent practicable, may provide administrative services and support services to the community advisory group.

"(8) FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to a community advisory group, to a citizen advisory group (designated by the President to serve the functions of a community advisory group, or to a Department of Defense restoration advisory board, Department of Energy Site Specific advisory board, or an ATSDR citizen advisory panel.

"(9) OTHER PUBLIC INVOLVEMENT.—The existence of a community advisory group shall not diminish any other obligation of the President to consider the views of any person in selecting response actions under this Act. Nothing in this section affects the status of any community advisory group formed before the date of enactment of this subsection. Nothing in this section affects the status, decisions, or future formation of any Department of Defense Restoration Advisory Board, or Department of Energy Site Specific Advisory Board, and no community advisory group need be established for a facility if any such Board has been established for the facility.

"(1) TECHNICAL ASSISTANCE GRANTS.—

"(A) AUTHORITY.—

"(A) IN GENERAL.—The President may make technical assistance grants available to members of an affected community for a covered facility in accordance with this subsection.

"(B) ACCESSIBILITY OF APPLICATION PROCESS.—To ensure that the application process

for a technical assistance grant is accessible to all affected citizen groups, the President shall periodically review the process and the application and, based on the review, implement appropriate changes to improve access.

"(C) NOTICE OF AVAILABILITY OF GRANTS.—The President shall solicit the assistance of a waste site information office in notifying the affected community (including an Indian tribe) of the availability of a technical assistance grant for a covered facility as soon as practicable after the President has begun a response action at the covered facility.

"(2) SPECIAL RULES.—

"(A) NO MATCHING CONTRIBUTION.—No matching contribution shall be required for a technical assistance grant.

"(B) ADVANCE PAYMENTS.—The President may disburse the grant to a recipient in advance of the recipient's making expenditures to be covered by the grant. In the event that the President advances funds, funds shall be advanced in amounts that do not exceed the greater of \$5,000 or 10 percent of the grant amount.

"(3) LIMIT PER FACILITY.—

"(A) IN GENERAL.—The Administrator may award not more than 1 technical assistance grant at 1 time with respect to a single covered facility.

"(B) EXTENSION.—The Administrator may extend a project period established in a grant to facilitate public participation at all stages of a response action.

"(4) FUNDING AMOUNT.—

"(A) LIMIT.—Except as provided in subparagraph (B), the amount of a technical assistance grant may not exceed \$50,000 for a single grant recipient.

"(B) WAIVER OF LIMIT.—The President may waive the limit on the amount of a technical assistance grant under subparagraph (A) if a waiver is necessary—

"(i) to carry out the purposes of this Act; or

"(ii) to reflect—

"(I) the complexity of the response action;

"(II) the nature and extent of contamination at the facility;

"(III) the level of facility activity;

"(IV) projected total needs as requested by the grant recipient;

"(V) the sizes and distances between the affected communities; or

"(VI) the ability of the grant recipient to identify and raise funds from other non-Federal sources.

"(5) CONSIDERATIONS.—In determining how to structure payment of the amount of a technical assistance grant, whether to extend a grant project period under subparagraph (3)(B), or whether to grant a waiver under paragraph (4)(B), the Administrator may consider factors such as the geographical size of the facility and the distances between affected communities.

"(6) USE OF TECHNICAL ASSISTANCE GRANTS.—

"(A) IN GENERAL.—A technical assistance grant recipient may use a grant—

"(i) to hire experts to assist the recipient in interpreting information and presenting the recipient's views with regard to a response action at the facility (including any aspect of a response action identified in subsection (h)(4)(A));

"(ii) to publish newsletters or otherwise disseminate information to other members of the local community; or

"(iii) to provide funding for training for interested affected citizens to enable the citizens to more effectively participate in the response process.

"(B) LIMITATION ON USE FOR TRAINING.—A technical assistance grant recipient may use

not more than 10 percent of the amount of a technical assistance grant, or \$5,000, whichever is less, for training under subparagraph (A)(iii).

"(7) GRANT GUIDELINES.—Not later than 180 days after the date of enactment of this paragraph, the President shall ensure that any guidelines concerning the management of technical assistance grants by grant recipients conform with this section."

#### SEC. 104. WASTE SITE INFORMATION OFFICES.

Section 117 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9617) (as amended by section 103) is amended by adding at the end the following:

##### "(j) WASTE SITE INFORMATION OFFICES.—

###### "(1) ESTABLISHMENT.—

"(A) IN GENERAL.—Subject to subparagraph (B), not later than 18 months after the date of enactment of this subsection, a State or Indian tribe with a facility on the National Priorities List within the State or Indian tribe's borders or reservation boundaries, respectively, may establish a waste site information office to perform the functions set forth in paragraph (3).

"(B) EXISTING OFFICES.—A State or Indian tribe may designate an office in existence before the date of enactment of this subsection to perform the functions of a waste site information office.

"(C) EPA ROLE.—If the State or Indian tribe notifies the Administrator that the State or Indian tribe does not intend to establish a waste site information office, or if the Administrator determines that the State or Indian tribe has not established, within 18 months after the date of enactment of this subsection, an office to perform the functions of a waste site information office, the Administrator shall establish an office within the Environmental Protection Agency to perform the functions.

###### "(2) FUNDING.—

"(A) IN GENERAL.—Funding for the operation of waste site information offices, or State, Indian tribe, or Environmental Protection Agency offices that perform similar functions, collectively, shall not exceed \$12,500,000 for a fiscal year.

"(B) STATE OR TRIBAL GRANTS.—Each State or Indian tribe that has a waste site information office, or each State, Indian tribe, or Environmental Protection Agency office performing the functions of a waste site information office, shall receive not less than \$100,000 for a fiscal year for the performance of those functions.

###### "(C) FORMULA.—

"(i) IN GENERAL.—The Administrator shall publish guidelines establishing a formula for determining the amount of funding for each waste site information office.

"(ii) FACTORS.—The formula shall include factors such as the number of facilities listed on the National Priorities List and the number of other covered facilities within the State's borders or Indian tribe's reservation boundaries.

###### "(3) FUNCTIONS.—

"(A) IN GENERAL.—A waste site information office shall, to the extent practicable—

"(i) assist the Administrator in—

"(I) informing the public regarding the existence of the waste site information office and its services and making available the information described in clause (ii); and

"(II) notifying the public of public meetings and other opportunities to participate under this Act and the rights of the public under this Act; and

"(ii) serve as a clearinghouse, and maintain records, as appropriate, for waste site information, including—

"(I) information relating to the operation of Federal, State, and tribal hazardous substance and waste laws with respect to the State or Indian tribe;

"(II) information relating to each covered facility in the State or tribal reservation, to the extent information becomes available, including—

"(aa) the location, characteristics, and name of owner and operator of the covered facility;

"(bb) the hazardous substances, pollutants, and contaminants at the facility;

"(cc) the response actions being taken, including records of any institutional controls that are included in the response actions;

"(dd) use of institutional controls;

"(ee) any health studies generated in connection with the covered facility;

"(ff) the status of the response actions at the covered facility;

"(gg) the results of a review under section 121(c); and

"(hh) the locations of the administrative record created for the facility, if any, under section 113(k);

"(iii) a description of the Administrator's process for identifying covered facilities and possible response actions under this Act;

"(IV) on request, the hazard ranking score of any facility for which a hazardous ranking score has been prepared and that is within the waste site information office's area of responsibility and the preliminary assessment or site inspection for the facility; and

"(V) identification of resources, including—

"(aa) technical assistance grants under subsection (h);

"(bb) opportunities for forming a community advisory group under subsection (g);

"(cc) opportunities to petition the Administrator of ATSDR to perform a health assessment or other related health activity under section 104(i)(6)(B); and

"(dd) additional technical resources, including information about how to access national databases containing toxicological, health, or other pertinent information.

##### "(B) REPORT.—

"(i) IN GENERAL.—Each waste site information office shall annually submit to the Administrator a report documenting how the funds under paragraph (2) were used to carry out the functions established by this subsection.

"(ii) VERIFICATION BY INSPECTOR GENERAL.—The Inspector General of the Environmental Protection Agency shall periodically review the programs carried out under this subsection.

"(iii) TERMINATION OF GRANT.—The Administrator shall terminate the grant if—

"(I) the Administrator is unable to verify a certification; or

"(II) the Administrator determines that the grant is not being used in a manner that is consistent with the functions under paragraph (3)."

#### SEC. 105. TECHNICAL OUTREACH SERVICES FOR COMMUNITIES.

Section 311(d)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9660(d)(2)) is amended—

(1) by striking "shall include, but not be limited to, the conduct of research" and inserting the following: "shall include—

"(A) the conduct of research";

(2) by striking the period at the end and inserting "; and"; and

(3) adding at the end the following:

"(B) the conduct of a program to provide to affected communities educational and

technical assistance to and information regarding the effects or potential effects of the contamination on human health and the environment."

#### SEC. 106. RECRUITMENT AND TRAINING PROGRAM.

Section 117 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9617) (as amended by section 104) is amended by adding at the end the following:

##### "(k) RECRUITMENT AND TRAINING PROGRAM.—

"(1) IN GENERAL.—The Administrator, in consultation with the National Institute of Environmental Health Science, shall conduct a program to assist in the recruitment and training of individuals in an affected community for employment in response actions conducted at the facility concerned.

"(2) RECRUITMENT, TRAINING, AND EMPLOYMENT.—The Administrator shall encourage a person conducting a response action under this Act to have contractors of the person train in remediation skills and employ persons from the affected community."

#### SEC. 107. PRIORITY SITE EVALUATION.

Section 117 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9617) (as amended by section 106) is amended by adding at the end the following:

##### "(l) PRIORITY SITE EVALUATION.—

"(1) EVALUATION.—The Administrator shall solicit the assistance of the waste site information office in identifying 3 facilities in the area covered by each regional office of the Administrator in major urban areas, or other areas with minority populations and low-income populations (such as within Indian country, Indian reservations, and poor rural communities) that are likely to warrant inclusion on the National Priorities List.

"(2) PRIORITY.—Not later than 2 years after the date of enactment of this subsection, a facility identified under paragraph (1) shall be accorded a priority in evaluation for listing on the National Priorities List and scoring and shall be evaluated for listing on the National Priorities List."

#### SEC. 108. UNDERSTANDABLE PRESENTATION OF MATERIALS.

Section 117 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9617) (as amended by section 107) is amended by adding at the end the following:

"(m) PRESENTATION OF MATERIALS.—The President shall ensure that information prepared for or distributed to the public under this section shall be provided or summarized in a manner that may be easily understood by the community, considering any unique cultural needs of the community."

#### SEC. 109. NO IMPEDIMENT TO RESPONSE ACTIONS.

Section 117 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9617) (as amended by section 109) is amended by adding at the end the following:

"(n) NO IMPEDIMENT TO RESPONSE ACTIONS.—Nothing in this section shall impede or delay the ability of the Environmental Protection Agency to conduct a response action necessary to protect human health and the environment."

#### TITLE II—LIABILITY

#### SEC. 201. LIABILITY EXEMPTIONS AND LIMITATIONS.

(a) LIABILITY EXEMPTIONS.—Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42

U.S.C. 9607) is amended by adding at the end the following:

"(o) LIABILITY EXEMPTIONS.—

"(1) CONTIGUOUS PROPERTIES.—

"(A) NOT CONSIDERED TO BE AN OWNER OR OPERATOR.—A person that owns or operates real property that is contiguous to or otherwise similarly situated with respect to a facility at which there has been a release or threatened release of a hazardous substance, that is or may be contaminated by the release, shall not be considered to be an owner or operator under paragraph (1) or (2) of subsection (a) solely by reason of the contamination if—

"(i) the person did not cause, contribute, or consent to the release or threatened release;

"(ii) the person is not associated with any other person that is potentially liable for any response costs at the facility at which there has been a release or threatened release of a hazardous substance, through any familial relationship, or any contractual, corporate, or financial relationship;

"(iii) the person exercised appropriate care with respect to hazardous substances from the facility, in light of all relevant facts and circumstances;

"(iv) the person is in compliance with any land use or activity restrictions on the property established or relied on in connection with a response action at the facility, including informing other persons that the person allows to occupy or use the property of the restrictions and taking prompt action to correct any noncompliance by such persons; and

"(v) the person provides full cooperation, assistance, and access to the persons that are authorized to conduct response actions at the facility, including the cooperation and access necessary for the installation, preservation of integrity, operation, and maintenance of any complete or partial response action at the facility.

"(B) ASSURANCES.—The President may issue an assurance that no enforcement action under this Act will be initiated against a person described in paragraph (1).

"(2) DE MICROMIS EXEMPTION.—

"(A) Notwithstanding paragraphs (1) through (4) of subsection (a), a person shall not be liable to the United States or any other person (including liability for contribution) under this Act for any response costs incurred with respect to a facility if—

"(i) liability is based solely on paragraph (3) or (4) of subsection (a);

"(ii) the total of materials containing a hazardous substance that the person arranged for disposal or treatment of, arranged with a transporter for transport for disposal or treatment, or, or accepted for transport for disposal or treatment, at the facility, was less than 110 gallons of liquid materials or less than 200 pounds of solid materials (or such other amount as the Administrator may determine on a site-specific basis); and

"(iii) the acts upon which liability is based took place wholly before July 1, 1997.

"(B) EXCEPTION.—Subparagraph (A) shall not apply in a case in which the President determines that the material containing hazardous substances referred to in subparagraph (A) contributed significantly or could contribute significantly, either individually or in the aggregate, to the cost of the response action with respect to the facility.

"(3) MUNICIPAL SOLID WASTE EXEMPTION.—Notwithstanding paragraphs (1) through (4) of subsection (a), a person shall not be liable to the United States or any other person (including liability for contribution) under this Act for any response costs incurred with respect to a facility, to the extent that—

"(A) liability is based on paragraph (3) or (4) of subsection (a); and

"(B) the person is—

"(i) an owner, operator, or lessee of residential property from which all of the person's municipal solid waste was generated;

"(ii) a business entity that, during the taxable year preceding the date of transmittal of written notification that the business is a potentially responsible party, employs not more than 100 individuals; or

"(iii) a small nonprofit organization from which all of the person's municipal solid waste was generated.

(b) LIABILITY LIMITATIONS.—Section 107 of the Comprehensive Environmental Response, Liability, and Compensation Act of 1980 (42 U.S.C. 9607) (as amended by subsection (a)) is amended by adding at the end the following:

"(p) LIABILITY LIMITATIONS.—

"(1) IN GENERAL.—A municipality that is liable for response costs under paragraph (1) or (2) of subsection (a) on the basis of ownership or operation of a municipal landfill that is listed on the National Priority List on or before January 1, 1997, shall be eligible for a settlement of that liability.

"(2) SETTLEMENT AMOUNT.—

"(A) IN GENERAL.—The President shall offer a settlement to a party with respect to liability described in paragraph (1) on the basis of a payment or other obligation equivalent in value to not more than 20 percent of the total response costs in connection with the facility.

"(B) INCREASED AMOUNT.—The President may increase the percentage under subparagraph (A) to not more than 35 percent if the President determines that—

"(i) the municipality committed specific acts that exacerbated environmental contamination or exposure with respect to the facility; or

"(ii) the municipality, during the period of ownership or operation of the facility, received operating revenues substantially in excess of the sum of the waste system operating costs plus 20 percent of total estimated response costs in connection with the facility.

"(3) PERFORMANCE OF RESPONSE ACTIONS.—As a condition of a settlement with a municipality under this subsection, the President may require that the municipality perform or participate in the performance of the response actions at the facility.

"(4) OWNERSHIP OR OPERATION BY 2 OR MORE MUNICIPALITIES.—A combination of 2 or more municipalities that jointly own or operate a facility shall be considered to be a single owner or operator for the purpose of calculating a settlement offer under this subsection.

"(5) CONDITIONS.—The limitation on settlement amount under paragraph (2) shall not apply on or after the date that is 2 years after the date of enactment of this subsection unless the municipality institutes or participates in a qualified household hazardous waste collection program before the date that is 2 years after the date of enactment of this subsection.

"(6) EXCEPTIONS.—The President may decline to offer a settlement under this subsection with respect to a facility if the President determines that—

"(A) there is no waste except municipal solid waste or municipal sewage sludge at the facility; or

"(B) all known potentially responsible parties are insolvent, defunct, or eligible for a settlement under this subsection or section 122(g)."

(c) COSTS AND FEES.—Section 107 of the Comprehensive Environmental Response, Li-

ability, and Compensation Act of 1980 (42 U.S.C. 9607) (as amended by subsection (b)) is amended by adding at the end the following:

"(q) COSTS AND FEES.—A person that commences an action for recovery of response costs or for contribution against a person that is not liable, or that has entered into an expedited settlement under section 107(p) or 122(g), shall be liable to the defendant for all reasonable costs of defending the action, including all reasonable attorney's fees and expert witness fees."

SEC. 202. EXPEDITED FINAL SETTLEMENT.

(a) PARTIES ELIGIBLE.—Section 122(g) of the Comprehensive Environmental Response, Liability, and Compensation Act of 1980 (42 U.S.C. 9622(g)) is amended—

(1) by striking the subsection heading and inserting the following:

"(g) EXPEDITED FINAL SETTLEMENT.—";

(2) in paragraph (1)—

(A) by redesignating subparagraph (B) as subparagraph (C);

(B) by striking "(1)" and all that follows through subparagraph (A) and inserting the following:

"(1) PARTIES ELIGIBLE.—

"(A) IN GENERAL.—The President shall, as expeditiously as practicable, notify of eligibility for a settlement, and offer to reach a final administrative or judicial settlement with, each potentially responsible party that, in the judgment of the President, meets 1 or more of the conditions stated in subparagraphs (B), (C), (D), and (E).

"(B) DE MINIMIS CONTRIBUTION.—The condition stated in this subparagraph is that the potentially responsible party's liability is for response costs based on paragraph (3) or (4) of subsection (a) and the party's contribution of hazardous substances at a facility is de minimis. For the purposes of this subparagraph, a potentially responsible party's contribution shall be considered to be de minimis only if the President determines that both of the following criteria are met:

"(i) The amount of material containing a hazardous substance contributed by the potentially responsible party to the facility is minimal relative to the total amount of material containing hazardous substances at the facility. The amount of a potentially responsible party's contribution shall be presumed to be minimal if the amount is 1 percent or less of the total amount of materials containing hazardous substances at the facility, unless the Administrator identifies a different threshold based on site-specific factors.

"(ii) The material containing a hazardous substance contributed by the potentially responsible party does not present toxic or other hazardous effects that are significantly greater than the toxic or other hazardous effects of other material containing hazardous substances at the facility."

(C) in subparagraph (C) (as redesignated by subparagraph (A))—

(i) by redesignating clauses (i) through (iii) as subclauses (I) through (III), respectively, and adjusting the margins appropriately;

(ii) by striking "(C) The potentially responsible party" and inserting the following:

"(C) OWNERS OF REAL PROPERTY.—

"(i) IN GENERAL.—The condition stated in this subparagraph is that the potentially responsible party"; and

(iii) by striking "This subparagraph (B)" and inserting the following:

"(ii) APPLICABILITY.—Clause (i)"; and

(D) by adding at the end the following:

"(D) CONTRIBUTION OF MUNICIPAL SOLID WASTE AND MUNICIPAL SEWAGE SLUDGE.—

"(i) IN GENERAL.—The condition stated in this subparagraph is that the liability of the

potentially responsible party is for response costs based on paragraph (3) or (4) of section 107(a) and on the potentially responsible party's having arranged for disposal or treatment of, arranged with a transporter for transport for disposal or treatment of, or accepted for transport for disposal or treatment of, municipal solid waste or municipal sewage sludge at a facility listed on the National Priorities List.

“(I) SETTLEMENT AMOUNT.—

“(I) IN GENERAL.—The President shall offer a settlement to a party referred to in clause (1) with respect to liability under paragraph (3) or (4) of section 107(a) on the basis of a payment of \$3.05 per ton of municipal solid waste or municipal sewage sludge that the President estimates is attributable to the party.

“(II) FACILITY-SPECIFIC ADJUSTMENT.—The President may adjust the \$3.05 amount in subclause (I), on a facility-specific basis, to not more than \$3.25 per ton, if the President determines that any of the following factors is present at a facility:

“(aa) A shallow aquifer underlies the facility.

“(bb) The facility is located in an area of high rainfall or cold ambient air temperature.

“(cc) The ground water affected by the facility is classified as drinking water.

“(dd) Low-permeability cover material (such as clay) is unavailable at the facility.

“(III) REVISION.—

“(aa) IN GENERAL.—The President may revise the \$3.05 and \$3.25 settlement amounts under subclauses (I) and (II) by regulation.

“(bb) BASIS.—A revised settlement amount under item (aa) shall reflect the estimated per-ton cost of closure and post-closure activities at a representative facility containing only municipal solid waste.

“(iii) CONDITIONS.—The provisions for settlement described in this subparagraph shall not apply with respect to a facility where there is no waste except municipal solid waste or municipal sewage sludge.

“(iv) MUNICIPAL SEWAGE SLUDGE CONTAINING CERTAIN RESIDUE.—The President may decline to offer a settlement under this subsection to a person that arranged for disposal or treatment of, arranged with a transporter for transport for disposal or treatment of, or accepted for transport for disposal or treatment, municipal sewage sludge, if the President determines that the municipal sewage sludge contributed or could contribute significantly to the cost of the response action at the facility.

“(v) ADJUSTMENT FOR INFLATION.—The Administrator may by guidance periodically adjust the settlement amounts under clause (ii) to reflect changes in the Consumer Price Index (or other appropriate index, as determined by the Administrator).

“(vi) MUNICIPAL OWNERS AND OPERATORS.—A municipality that arranged for disposal or treatment of, arranged with a transporter for transport for disposal or treatment of, or accepted for transport for disposal or treatment, municipal solid waste or municipal sewage sludge at a facility and is a municipality that is also potentially liable under paragraph (1) or (2) of section 107(a) at the facility shall be eligible for settlement under this subparagraph and section 107(p). The settlement amount shall be equal to the settlement amount under clause (ii) with respect to its contribution of municipal solid waste or municipal sewage sludge, plus the amount provided in section 107(p) as to the liability of the municipality under paragraph (1) or (2) of section 107(a).

“(E) REDUCTION IN SETTLEMENT AMOUNT BASED ON LIMITED ABILITY TO PAY.—

“(I) IN GENERAL.—The condition stated in this subparagraph is that the potentially responsible party—

“(I) is—

“(aa) a natural person;

“(bb) a small business; or

“(cc) a municipality; and

“(II) demonstrates to the President an inability or a limited ability to pay response costs.

“(i) COSTS BORNE BY THE UNITED STATES.—Where the United States enters into a settlement under section 122 with a party that agrees to perform work at the same facility that is the subject of a settlement under clause (1), the United States shall contribute the difference between—

“(I) the aggregate share that the Administrator determines, on the basis of information presented, to be specifically attributable to parties with a limited ability to pay response costs; and

“(II) the share actually assumed by those parties in any settlements with the United States under clause (1).

“(iii) SMALL BUSINESSES.—

“(I) DEFINITION OF SMALL BUSINESS.—In this subparagraph, the term ‘small business’ means a business entity that—

“(aa) together with its parents, subsidiaries, and other affiliates, had an average of not more than 50 full-time equivalent employees and an average of not more than \$3,000,000 in annual gross revenues, as reported to the Internal Revenue Service, during the 3 years preceding the date on which the business entity first received notice from the President of its potential liability under this Act; and

“(bb) is not associated with any other person potentially responsible for response costs at the facility through any familial relationship, or any contractual, corporate, or financial relationship other than that arising from an arrangement for disposal or treatment, or for transport for disposal or treatment of hazardous substances.

“(iv) DEFINITION OF AFFILIATE.—In this subparagraph, the term ‘affiliate’ has the meaning given the term ‘small business concern’ in regulations promulgated by the Small Business Administration in accordance with the Small Business Act (15 U.S.C. 631 et seq.).

“(v) OTHER POTENTIALLY RESPONSIBLE PARTIES.—This subparagraph does not affect the President's authority to evaluate the ability to pay of a potentially responsible party other than a natural person, small business, or municipality, or to enter into a settlement with such other party based on that party's ability to pay.

“(F) BASIS OF DETERMINATION.—If the President determines that a potentially responsible party is not eligible for settlement under this subsection, the President shall state the reasons for the determination in writing to any potentially responsible party that requests a settlement under this paragraph. A determination by the President under this paragraph shall not be subject to judicial review.”

(b) SETTLEMENT OFFERS.—Section 122 of the Comprehensive Environment Response, Liability, and Compensation Act of 1980 (42 U.S.C. 9622) is amended—

(1) in subsection (g)—

(A) by redesignating paragraph (6) as paragraph (10); and

(B) by inserting after paragraph (5) the following:

“(6) SETTLEMENT OFFERS.—

“(A) IN GENERAL.—As soon as practicable after receipt of sufficient information, the

Administrator shall submit a written settlement offer to each person that the Administrator determines, based on information available to the Administrator at the time at which the determination is made, to be eligible for a settlement under paragraph (1).

“(B) INFORMATION.—At the time at which the Administrator submits an offer under paragraph (1), the Administrator shall, at the request of the recipient of the offer, make available to the recipient any information available under section 552 of title 5, United States Code, on which the Administrator bases the settlement offer, and if the settlement offer is based in whole or in part on information not available under that section, so inform the recipient.

“(7) LITIGATION MORATORIUM.—

“(A) IN GENERAL.—No person eligible for an expedited settlement under paragraph (1) shall be named as a defendant in any action under this Act for recovery of response costs (including an action for contribution) during the period beginning on the date on which the person receives from the President written notice of its potential liability and notice that it is a party that may qualify for an expedited settlement, and ending on the earlier of—

“(i) the date that is 90 days after the date on which the President tenders a written settlement offer to the person; or

“(ii) the date that is 1 year after the date specified in subparagraph (A).

“(B) TOLLING OF PERIOD OF LIMITATION.—The period of limitation under section 113(g) applicable to a claim against a person described in subparagraph (A) for response costs or contribution shall be tolled during the period described in subparagraph (A).

“(C) STAY OF LITIGATION.—If, before the date of enactment of this paragraph, a person described in subparagraph (A) has been named as a defendant in an action for recovery of response costs or contribution, the court shall, unless a stay would result in manifest injustice, stay the action as to that claim until the end of the period described in subparagraph (A).

“(8) NOTICE OF SETTLEMENT.—After a settlement under this subsection becomes final with any person with respect to a facility, the President shall promptly notify potentially responsible parties at the facility that have not resolved their liability to the United States of the settlement.”; and

(2) by adding at the end the following:

“(n) EXCEPTIONS.—Subsection (g) and subsections (o) and (p) of section 107 shall not apply in a case in which the President determines that the person has failed to comply with any request for information or administrative subpoena issued by the President under this Act, or has impeded or is impeding the performance of a response action with respect to the facility.

“(o) WAIVER OF CLAIMS.—The President may require, as a condition of settlement under this subsection or section 107(p), that a potentially responsible party waive some or all of the claims (including a claim for contribution under section 113) that the party may have against other potentially responsible parties for all response costs incurred at the facility.

“(p) RELATIONSHIP TO LIABILITY UNDER OTHER LAW.—Nothing in this section affects the obligation of any person to comply with any other Federal, State, or local law (including requirements under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).”

(c) REGULATIONS.—The Administrator of the Environmental Protection Agency has

the authority, under section 115 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9615), to promulgate additional regulations concerning the amendments made by this section.

By Mr. DORGAN (for himself, Mr. LAUTENBERG, Mr. BUMPERS, Mr. CONRAD, and Mr. WELLSTONE):

S. 1498. A bill to require States to adopt laws prohibiting open alcoholic containers in automobiles; to the Committee on Environment and Public Works.

THE NATIONAL DRUNK DRIVING PROTECTION ACT

Mr. DORGAN. Mr. President, today I am introducing legislation to combat our Nation's continual problem with drunk driving. This problem, that attacks young and old alike, is multifaceted and must be combating on several fronts. My bill addresses the need to take alcohol out of automobiles by establishing a national policy prohibiting open alcohol containers in automobiles.

To put this problem in perspective, an average of one person every half hour dies as a result of drunk driving, and that worked out to be 17,272 alcohol-related fatalities in 1996 according to the Department of Transportation. This figure is over 40 percent of the total number of traffic fatalities in the United States. The sad irony in these statistics is that drunk driving is a preventable problem.

Even more heart wrenching is that drunk driving is killing a disproportionate amount of our youth and young adults. In 1995, while 30 percent of our driving population was between the ages of 21-34, 50 percent of the fatalities and 50 percent of the drunk driving injuries were in this age group. That amounted to 6,760 dead and 95,800 injured young adults.

One way we must combat drunk driving is to ban the consumption of alcohol in automobiles. According to the National Highway Traffic Safety Administration, in 22 States it is still legal for passengers in a vehicle to be drinking while the vehicle is in operation. And in 10 States, it is perfectly legal for a driver of a car to have one hand on the steering wheel and drinking a bottle of whisky in the other. It seems inexcusable to me that we have a circumstance in this country where citizens cannot be assured that in every State and in every local jurisdiction in the Nation that there are not laws against people drinking and driving at the same time. This legislation will provide that assurance and prohibit open containers in every State.

I hope that the Senate will have a good debate on drunk driving issues early next year when we return to debate the reauthorization of the Intermodal Surface Transportation Efficiency Act [ISTEA]. I intend to offer this legislation as amendment to the ISTEA reauthorization and I urge my colleagues to support this effort.

I ask unanimous consent that the text of the bill be printed in the RECORD:

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1498

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "National Drunk Driving Protection Act".

**SECTION 2. OPEN CONTAINER LAWS.**

(a) ESTABLISHMENT.—Chapter I of title 23, United States Code, is amended by inserting after section 153 the following:

**"§ 154. Open container requirements**

"(a) DEFINITIONS.—In this section:

"(1) ALCOHOLIC BEVERAGE.—The term 'alcoholic beverage' has the meaning given the term in section 158(c).

"(2) MOTOR VEHICLE.—The term 'motor vehicle' means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways, but does not include a vehicle operated exclusively on a rail or rails.

"(3) OPEN ALCOHOLIC BEVERAGE CONTAINER.—The term 'open alcoholic beverage container' has the meaning given the term in section 410(i).

"(4) PASSENGER AREA.—The term 'passenger area' shall have the meaning given the term by the Secretary by regulation.

"(b) PENALTY.—

"(1) GENERAL RULE.—

"(A) FISCAL YEAR 2000.—If, at any time in fiscal year 2000, a State does not have in effect a law described in subsection (c), the Secretary shall transfer 1.5 percent of the funds apportioned to the State for fiscal year 2001 under each of paragraphs (1)(A), (1)(C), and (3) of section 104(b) to the apportionment of the State under section 402.

"(B) FISCAL YEARS THEREAFTER.—If, at any time in a fiscal year beginning after September 30, 2000, a State does not have in effect a law described in subsection (c), the Secretary shall transfer 3 percent of the funds apportioned to the State for the following fiscal year under each of paragraphs (1)(A), (1)(C), and (3) of section 104(b) to the apportionment of the State under section 402.

"(c) OPEN CONTAINER LAWS.—

"(1) IN GENERAL.—For the purposes of this section, each State shall have in effect a law that prohibits the possession of any open alcoholic beverage container, or the consumption of any alcoholic beverage, in the passenger area of any motor vehicle (including possession or consumption by the driver of the vehicle) located on a public highway, or the right-of-way of a public highway, in the State.

"(2) MOTOR VEHICLES DESIGNED TO TRANSPORT MANY PASSENGERS.—For the purposes of this section, if a State has in effect a law that makes unlawful the possession of any open alcoholic beverage container in the passenger area by the driver (but not by a passenger) of a motor vehicle designed to transport more than 10 passengers (including the driver) while being used to provide charter transportation of passengers, the State shall be deemed to have in effect a law described in this subsection with respect to such a motor vehicle for each fiscal year during which the law is in effect.

"(d) FEDERAL SHARE.—The Federal share of the cost of a project carried out under sec-

tion 402 with funds transferred under subsection (b) to the apportionment of a State under section 402 shall be 100 percent.

"(e) TRANSFER OF OBLIGATION AUTHORITY.—

"(1) IN GENERAL.—If the Secretary transfers under subsection (b) any funds to the apportionment of a State under section 402 for a fiscal year, the Secretary shall allocate to the State an amount, determined under paragraph (2), of obligation authority distributed for the fiscal year for Federal-aid highways and highway safety construction programs for carrying out projects under section 402.

"(2) AMOUNT.—The amount of obligation authority referred to in paragraph (1) shall be determined by multiplying—

"(A) the amount of funds transferred under subsection (b) to the apportionment of the State under section 402 for the fiscal year; by

"(B) the ratio that—

"(i) the amount of obligation authority distributed for the fiscal year to the State for Federal-aid highways and highway safety construction programs; bears to

"(ii) the total of the sums apportioned to the State for Federal-aid highways and highway safety construction programs (excluding sums not subject to any obligation limitation) for the fiscal year.

"(f) LIMITATION ON APPLICABILITY OF HIGHWAY SAFETY OBLIGATIONS.—Notwithstanding any other provision of law, no limitation on the total of obligations for highway safety programs under section 402 shall apply to funds transferred under subsection (b) to the apportionment of a State under section 402."

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by inserting after the item relating to section 153 the following:

"154. Open container requirements."

By Mrs. BOXER:

S. 1499. A bill to amend the title XXVII of the Public Health Service Act and other laws to assure the rights of enrollees under managed care plans; to the Committee on Labor and Human Resources.

THE HEALTH INSURANCE CONSUMER'S BILL OF RIGHTS ACT OF 1997

Mrs. BOXER. Mr. President, today I am introducing the Health Insurance Consumer's bill of rights. I have been working closely on this bill with Congressman CHUCK SCHUMER, who has introduced companion legislation in the House.

Our will address an increasing crisis of confidence in our Nation's health care system. This crisis of confidence is especially evident for the increasing number of Americans enrolled in managed care health plans.

A recent survey conducted by the Henry Kaiser Family Foundation and Harvard University found that only 44 percent of enrollees in managed care health care plans believe it is very likely that necessary treatments would be covered if they became seriously ill. Fully 69 percent of enrollees in traditional fee-for-service plans believed they would be adequately covered.

The survey found that the American people hold managed care plans generally in low esteem and they support efforts to improve the health insurance

system. That, Mr. President, is exactly what the Boxer-Schumer bill aims to do.

The Health Insurance Consumer's bill of rights requires all health insurance plans to meet basic requirements for conduct, coverage, and consumer disclosure.

Specifically, the bill requires that all managed care plans have an adequate number of primary care physicians and specialists to meet the health care needs of their enrollees. It requires health plans to cover emergency care, terminate so-called gag rules that limit communication between a doctor and a patient. It requires the annual disclosure of a wealth of important consumer information to enrollees and potential enrollees, and finally, this bill contains a number of important provisions to ensure that women are treated fairly in managed care plans.

I want to make clear that the Schumer-Boxer bill is not antimanaged care. On the contrary, the bill accepts that managed care plans are the chosen kind of coverage for millions of Americans. It is precisely for that reason that Congress must act to ensure that managed care plans act responsibly and provide quality coverage.

I hope the Senate will consider this bill carefully and act upon it early next year.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1499

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Health Insurance Consumer's Bill of Rights Act of 1997".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

#### TITLE I—HEALTH INSURANCE BILL OF RIGHTS

Sec. 101. Health insurance bill of rights.

"PART C—HEALTH INSURANCE BILL OF RIGHTS  
"Sec. 2770. Notice; additional definitions.

"SUBPART 1—ACCESS TO PRIMARY CARE PHYSICIANS, SPECIALISTS, OUT OF NETWORK PROVIDERS, EMERGENCY ROOM SERVICES, PRESCRIPTION DRUGS

"Sec. 2771. Access to personnel and facilities; assuring adequate choice of health care professionals.

"Sec. 2772. Access to specialty care.

"Sec. 2773. Access to emergency care.

"Sec. 2774. Coverage for individuals participating in approved clinical trials.

"Sec. 2775. Continuity of care.

"Sec. 2776. Prohibition of interference with certain medical communications.

"Sec. 2777. Access to needed prescription drugs.

"SUBPART 2—UTILIZATION REVIEW, GRIEVANCE, APPEALS, AND QUALITY IMPROVEMENT

"Sec. 2779. Standards for utilization review activities, complaints, and appeals.

"Sec. 2780. Quality improvement program.

"SUBPART 3—NONDISCRIMINATION

"Sec. 2784. Nondiscrimination.

"SUBPART 4—CONFIDENTIALITY

"Sec. 2785. Medical records and confidentiality.

"SUBPART 5—DISCLOSURES

"Sec. 2786. Health prospectus; disclosure of information.

"SUBPART 6—PROMOTING GOOD MEDICAL PRACTICE AND PROTECTING THE DOCTOR-PATIENT RELATIONSHIP

"Sec. 2787. Promoting good medical practice.

#### TITLE II—APPLICATION OF BILL OF RIGHTS UNDER VARIOUS LAWS

Sec. 201. Amendments to the Public Health Service Act.

Sec. 202. Managed care requirements under the Employee Retirement Income Security Act of 1974.

Sec. 203. Managed care requirements under the Internal Revenue Code of 1986.

Sec. 204. Managed care requirements under Medicare, Medicaid, and the Federal employees health benefits program (FEHBP).

Sec. 205. Effective dates.

#### TITLE I—HEALTH INSURANCE BILL OF RIGHTS

##### SEC. 101. HEALTH INSURANCE BILL OF RIGHTS.

Title XXVII of the Public Health Service Act is amended—

(1) by redesignating part C as part D, and  
(2) by inserting after part B the following new part:

"PART C—HEALTH INSURANCE BILL OF RIGHTS

##### "SEC. 2770. NOTICE; ADDITIONAL DEFINITIONS.

"(a) NOTICE.—A health insurance issuer under this part shall comply with the notice requirement under section 711(d) of the Employee Retirement Income Security Act of 1974 with respect to the requirements of this part as if such section applied to such issuer and such issuer were a group health plan.

"(b) ADDITIONAL DEFINITIONS.—For purposes of this part:

"(1) ENROLLEE.—The term 'enrollee' means an individual who is entitled to benefits under a group health plan or under health insurance coverage.

"(2) HEALTH CARE PROFESSIONAL.—The term 'health care professional' means a physician or other health care practitioner providing health care services.

"(3) HEALTH CARE PROVIDER.—The term 'health care provider' means a clinic, hospital physician organization, preferred provider organization, independent practice association, community service provider, family planning clinic, or other appropriately licensed provider of health care services or supplies.

"(4) MANAGED CARE.—The term 'managed care' means, with respect to a group health plan or health insurance coverage, such a plan or coverage that provides financial incentives for enrollees to obtain benefits through participating health care providers or professionals.

"(5) NONPARTICIPATING.—The term 'nonparticipating' means, with respect to a health care provider or professional and a group health plan or health insurance cov-

erage, such a provider or professional that is not a participating provider or professional with respect to such services.

"(6) PARTICIPATING.—The term 'participating' means, with respect to a health care provider or professional and a group health plan or health insurance coverage offered by a health insurance issuer, such a provider or professional that has entered into an agreement or arrangement with the plan or issuer with respect to the provision of health care services to enrollees under the plan or coverage.

"(7) PRIMARY CARE PRACTITIONER.—The term 'primary care practitioner' means, with respect to a group health plan or health insurance coverage offered by a health insurance issuer, a health care professional (who may be trained in family practice, general practice, internal medicine, obstetrics and gynecology, or pediatrics and who is practicing within the scope of practice authorized by State law) designated by the plan or issuer to coordinate, supervise, or provide ongoing care to enrollees.

"SUBPART 1—ACCESS TO PRIMARY CARE PHYSICIANS, SPECIALISTS, OUT OF NETWORK PROVIDERS, EMERGENCY ROOM SERVICES, PRESCRIPTION DRUGS

##### "SEC. 2771. ACCESS TO PERSONNEL AND FACILITIES; ASSURING ADEQUATE CHOICE OF HEALTH CARE PROFESSIONALS.

"A managed care group health plan (and a health insurance issuer offering managed care group health insurance coverage) shall comply with regulations promulgated by the Secretary that ensure that such plans and issuers—

"(1) have a sufficient number and type of primary care practitioners and specialists, throughout the service area to meet the needs of enrollees and to provide meaningful choice;

"(2) maintain a mix of primary care practitioners that is adequate to meet the needs of the enrollees' varied characteristics, including age, gender, race, and health status; and

"(3) include, to the extent possible, a variety of primary care providers (including community health centers, rural health clinics, and family planning clinics).

##### "SEC. 2772. ACCESS TO SPECIALTY CARE.

"A managed care group health plan (and a health insurance issuer offering managed care group health insurance coverage) shall comply with regulations promulgated by the Secretary that ensure that such plans and issuers provide enrollees with—

"(1) access to specialty care;

"(2) standing referrals to specialists;

"(3) access to nonparticipating providers;

"(4) direct access (without the need for a referral) to health care professionals trained in obstetrics and gynecology; and

"(5) a process that permits a health care provider trained in obstetrics and gynecology to be designated and treated as a primary care practitioner.

##### "SEC. 2773. ACCESS TO EMERGENCY CARE.

"(a) IN GENERAL.—If a group health plan or health insurance coverage provides any benefits with respect to emergency services (as defined in subsection (b)(1)), the plan or the health insurance issuer offering such coverage shall—

"(1) provide for emergency services without regard to prior authorization or the emergency care provider's contractual relationship with the organization; and

"(2) comply with such guidelines as the Secretary of Health and Human Services may prescribe relating to promoting efficient and timely coordination of appropriate maintenance and post-stabilization care of

an enrollee after the enrollee has been determined to be stable under section 1867 of the Social Security Act.

“(b) DEFINITION OF EMERGENCY SERVICES.—In this subsection—

“(1) IN GENERAL.—The term ‘emergency services’ means, with respect to an enrollee under a plan or coverage, inpatient and outpatient services covered under the plan or coverage that—

“(A) are furnished by a provider that is qualified to furnish such services under the plan or coverage, and

“(B) are needed to evaluate or stabilize an emergency medical condition (as defined in subparagraph (B)).

“(2) EMERGENCY MEDICAL CONDITION BASED ON PRUDENT LAYPERSON.—The term ‘emergency medical condition’ means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in—

“(A) placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy,

“(B) serious impairment to bodily functions, or

“(C) serious dysfunction of any bodily organ or part.

“SEC. 2774. COVERAGE FOR INDIVIDUALS PARTICIPATING IN APPROVED CLINICAL TRIALS.

“(a) IN GENERAL.—If a group health plan provides benefits, or a health insurance issuer offers health insurance coverage to, a qualified enrollee (as defined in subsection (b)), the plan or issuer—

“(1) may not deny the enrollee participation in the clinical trial referred to in subsection (b)(2);

“(2) subject to subsection (c), may not deny (or limit or impose additional conditions on) the coverage of routine patient costs for items and services furnished in connection with participation in the trial; and

“(3) may not discriminate against the enrollee on the basis of the enrollee’s participation in such trial.

“(b) QUALIFIED ENROLLEE DEFINED.—For purposes of subsection (a), the term ‘qualified enrollee’ means an enrollee who meets the following conditions:

“(1) The enrollee has a life-threatening or serious illness for which no standard treatment is effective.

“(2) The enrollee is eligible to participate in an approved clinical trial with respect to treatment of such illness.

“(3) The enrollee and the referring physician conclude that the enrollee’s participation in such trial would be appropriate.

“(4) The enrollee’s participation in the trial offers potential for significant clinical benefit for the enrollee.

“(c) PAYMENT.—

“(1) IN GENERAL.—Under this section a plan or issuer shall provide for payment for routine patient costs described in subsection (a)(2) but is not required to pay for costs of items and services that are reasonably expected (as determined by the Secretary) to be paid for by the sponsors of an approved clinical trial.

“(2) PAYMENT RATE.—In the case of covered items and services provided by—

“(A) a participating provider, the payment rate shall be at the agreed upon rate, or

“(B) a nonparticipating provider, the payment rate shall be at the rate the plan or

issuer would normally pay for comparable services under subparagraph (A).

“(d) APPROVED CLINICAL TRIAL DEFINED.—In this section, the term ‘approved clinical trial’ means a clinical research study or clinical investigation approved by the Food and Drug Administration or approved and funded by one or more of the following:

“(1) The National Institutes of Health.

“(2) A cooperative group or center of the National Institutes of Health.

“(3) The Department of Veterans Affairs.

“(4) The Department of Defense.

“SEC. 2775. CONTINUITY OF CARE.

“A managed care group health plan (and a health insurance issuer offering managed care group health insurance coverage) shall comply with regulations promulgated by the Secretary that ensure that such plans and issuers provide continuity of coverage in the case of the terminated coverage where an enrollee is undergoing a course of treatment with the provider at the time of such termination.

“SEC. 2776. PROHIBITION OF INTERFERENCE WITH CERTAIN MEDICAL COMMUNICATIONS.

“(a) IN GENERAL.—The provisions of any contract or agreement, or the operation of any contract or agreement, between a group health plan or health insurance issuer (offering health insurance coverage in connection with a group health plan) and a health professional shall not prohibit or restrict the health professional from engaging in medical communications with his or her patient.

“(b) NULLIFICATION.—Any contract provision or agreement described in subsection (a) shall be null and void.

“(c) MEDICAL COMMUNICATION DEFINED.—For purposes of this section, the term ‘medical communication’ has the meaning given such term by the Secretary.

“SEC. 2777. ACCESS TO NEEDED PRESCRIPTION DRUGS.

“If a group health plan, or health insurance issuer offers health insurance coverage that, provides benefits with respect to prescription drugs but the coverage limits such benefits to drugs included in a formulary, the plan or issuer shall ensure in accordance with regulations of the Secretary that—

“(1) the nature of the formulary restrictions is fully disclosed to enrollees; and

“(2) exceptions from the formulary restriction are provided when medically necessary or appropriate.

“SUBPART 2—UTILIZATION REVIEW, GRIEVANCE, APPEALS, AND QUALITY IMPROVEMENT

“SEC. 2779. STANDARDS FOR UTILIZATION REVIEW ACTIVITIES, COMPLAINTS, AND APPEALS.

“A group health plan and a health insurance issuer offering health insurance coverage in connection with a group health plan shall comply with standards established by the Secretary relating to its conduct of utilization review activities. Such standards shall include the following:

“(1) A requirement that a plan or issuer develop written policies and criteria concerning utilization review activities.

“(2) A requirement that a plan or issuer provide notice of such policies and criteria and the written notice of adverse determinations.

“(3) A restriction on the use of contingent compensation arrangements with providers.

“(4) A requirement establishing deadlines to ensure timely utilization review determinations.

“(5) The establishment of an adequate process for filing complaints, and appealing decisions, concerning utilization review de-

terminations, including the mandatory use of an outside review panel to make decisions on such appeals.

“(6) A requirement that a plan or issuer that utilizes clinical practice guidelines uniformly apply review criteria that are based on sound scientific principles and the most recent medical evidence.

“SEC. 2780. QUALITY IMPROVEMENT PROGRAM.

“(a) IN GENERAL.—A group health plan and health insurance issuer offering health insurance coverage shall make arrangements for an ongoing quality improvement program for health care services it provides to enrollees. Such a program shall meet standards established by the Secretary, including standards relating to—

“(1) the measurement of health outcomes relevant to all populations, including women;

“(2) evaluation of high risk services;

“(3) monitoring utilization of services;

“(4) ensuring appropriate action to improve quality of care; and

“(5) providing for an independent external review of the program.

“SUBPART 3—NONDISCRIMINATION

“SEC. 2784. NONDISCRIMINATION.

“(a) ENROLLEES.—A group health plan or health insurance issuer offering health insurance coverage (whether or not a managed care plan or coverage) may not discriminate or engage (directly or through contractual arrangements) in any activity, including the selection of service area, that has the effect of discriminating against an individual on the basis of race, culture, national origin, gender, sexual orientation, language, socioeconomic status, age, disability, genetic makeup, health status, payer source, or anticipated need for healthcare services.

“(b) PROVIDERS.—Such a plan or issuer may not discriminate in the selection of members of the health provider or provider network (and in establishing the terms and conditions for membership in the network) of the plan or coverage based on any of the factors described in subsection (a).

“(c) SERVICES.—Such a plan or issuer may not exclude coverage (including procedures and drugs) if the effect is to discriminate in violation of subsection (a) or (b).

“SUBPART 4—CONFIDENTIALITY

“SEC. 2785. MEDICAL RECORDS AND CONFIDENTIALITY.

“A managed care group health plan (and a health insurance issuer offering managed care group health insurance) shall—

“(1) establish written policies and procedures for the handling of medical records and enrollee communications to ensure enrollee confidentiality;

“(2) ensure the confidentiality of specified enrollee information, including, prior medical history, medical record information and claims information, except where disclosure of this information is required by law; and

“(3) not release any individual patient record information, unless such a release is authorized in writing by the enrollee or otherwise required by law.

“SUBPART 5—DISCLOSURES

“SEC. 2786. HEALTH PROSPECTUS; DISCLOSURE OF INFORMATION.

“(a) DISCLOSURE.—Each group health plan, and each health insurance issuer providing health insurance coverage, shall provide to each enrollee at the time of enrollment and on an annual basis, and shall make available to each prospective enrollee upon request—

“(1) a prospectus that relates to the plan or coverage offered and that meets the requirements of subsection (b); and

“(2) additional information described in subsection (c).

“(b) PROSPECTUS.—

“(1) IN GENERAL.—Each prospectus under this subsection for a plan or coverage—

“(A) shall contain the information described in paragraphs (2) through (4) concerning the plan or coverage.

“(B) shall contain such additional information as the Secretary deems appropriate, and

“(C) shall be no longer than 3 pages in length and in a format specified by the Secretary, for purposes of comparison by prospective enrollees.

“(2) QUALITATIVE INFORMATION.—The information described in this paragraph is a summary of the quality assessment data on the plan or coverage. The data shall—

“(A) be the similar to the types of data as are collected for managed care plans under title XVIII of the Social Security Act, as determined by the Secretary and taking into account differences between the populations covered under such title and the populations covered under this title;

“(B) be collected by independent, auditing agencies;

“(C) include—

“(i) a description of the types of methodologies (including capitation, financial incentive or bonuses, fee-for-service, salary, and withholdings) used by the plan or issuer to reimburse physicians, including the proportions of physicians who have each of these types of arrangements; and

“(ii) cost-sharing requirements for enrollees.

The information under subparagraph (C) shall include, upon request, information on the reimbursement methodology used by the plan or issuer or medical groups for individual physicians, but do not require the disclosure of specific reimbursement rates.

“(3) QUANTITATIVE INFORMATION.—The information described in this paragraph is measures of performance of the plan or issuer (in relation to coverage offered) with respect to each of the following and such other salient data as the Secretary may specify:

“(A) The ratio of physicians to enrollees, including the ratio of physicians who are obstetrician/gynecologists to adult, female enrollees.

“(B) The ratio of specialists to enrollees.

“(C) The incentive structure used for payment of primary care physicians and specialists.

“(D) Patient outcomes for procedures, including procedures specific to female enrollees.

“(E) The number of grievances filed under the plan or coverage.

“(F) The number of requests for procedures for which utilization review board review or approval is required and the number (and percentage) of such requests that are denied.

“(G) The number of appeals filed from denial of such requests and the number (and percentage) of such appeals that are approved, such numbers and percentages broken down by gender of the enrollee involved.

“(H) Disenrollment data.

“(4) DESCRIPTION OF BENEFITS.—The information described in this paragraph is a description of the benefits provided under the plan or coverage, as well as explicit exclusions, including a description of the following:

“(A) Coverage policy with respect to coverage for female-specific benefits, including screening mammography, hormone replacement therapy, bone density testing, osteoporosis screening, maternity care, and

reconstructive surgery following a mastectomy.

“(B) The costs of copayments for treatments, including any exceptions.

“(c) ADDITIONAL INFORMATION.—The additional information described in this subsection is information about each of the following:

“(1) The plan's or issuer's structure and provider network, including the names and credentials of physicians in the network.

“(2) Coverage provided and excluded, including out-of-area coverage.

“(3) Procedures for utilization management.

“(4) Procedures for determining coverage for investigational or experimental treatments as well as definitions for coverage terms.

“(5) Any restrictive formularies or prior approval requirements for obtaining prescription drugs, including, upon request, information on whether or not specific drugs are covered.

“(6) Use of voluntary or mandatory arbitration.

“(7) Procedures for receiving emergency care and out-of-network services when those services are not available in the network and information on the coverage of emergency services, including—

“(A) the appropriate use of emergency services, including use of the 911 telephone system or its local equivalent in emergency situations and an explanation of what constitutes an emergency situation;

“(B) the process and procedures for obtaining emergency services; and

“(C) the locations of (i) emergency departments, and (ii) other settings, in which physicians and hospitals provide emergency services and post-stabilization care.

“(8) How to contact agencies that regulate the plan or issuer.

“(9) How to contact consumer assistance agencies, such as ombudsmen programs.

“(10) How to obtain covered services.

“(11) How to receive preventive health services and health education.

“(12) How to select providers and obtain referrals.

“(13) How to appeal health plan decisions and file grievances.

“(d) STATE AUTHORITY TO REQUIRE ADDITIONAL INFORMATION.—

“(1) IN GENERAL.—Subject to paragraph (2), this section shall not be construed as preventing a State from requiring health insurance issuers, in relation to their offering of health insurance coverage, to disclose separately information (including comparative ratings of health insurance coverage) in addition to the information required to be disclosed under this section.

“(2) CONTINUED PREEMPTION WITH RESPECT TO GROUP HEALTH PLANS.—Nothing in this part shall be construed to affect or modify the provisions of section 514 with respect to group health plans.

“SUBPART 6—PROMOTING GOOD MEDICAL PRACTICE AND PROTECTING THE DOCTOR-PATIENT RELATIONSHIP

“SEC. 2787. PROMOTING GOOD MEDICAL PRACTICE.

“(a) PROHIBITING ARBITRARY LIMITATIONS OR CONDITIONS FOR THE PROVISION OF SERVICES.—A group health plan and a health insurance issuer, in connection with the provision of health insurance coverage, may not impose limits on the manner in which particular services are delivered if the services are medically necessary or appropriate to the extent that such procedure or treatment is otherwise a covered benefit.

“(b) CONSTRUCTION.—Subsection (a) shall not be construed as requiring coverage of particular services the coverage of which is otherwise not covered under the terms of the coverage.”

## TITLE II—APPLICATION OF BILL OF RIGHTS UNDER VARIOUS LAWS

### SEC. 201. AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT.

(a) APPLICATION TO GROUP HEALTH INSURANCE COVERAGE.—Subpart 2 of part A of title XXVII of the Public Health Service Act is amended by adding at the end the following new section:

#### “SEC. 2706. MANAGED CARE REQUIREMENTS.

“Each health insurance issuer shall comply with the applicable requirements under part C with respect to group health insurance coverage it offers.”

(b) APPLICATION TO INDIVIDUAL HEALTH INSURANCE COVERAGE.—Part B of title XXVII of the Public Health Service Act is amended by inserting after section 2751 the following new section:

#### “SEC. 2752. MANAGED CARE REQUIREMENTS.

“Each health insurance issuer shall comply with the applicable requirements under part C with respect to individual health insurance coverage it offers, in the same manner as such requirements apply to group health insurance coverage.”

(c) MODIFICATION OF PREEMPTION STANDARDS.—

(1) GROUP HEALTH INSURANCE COVERAGE.—Section 2723 of such Act (42 U.S.C. 300gg-23) is amended—

(A) in subsection (a)(1), by striking “subsection (b)” and inserting “subsections (b) and (c)”; and

(B) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(C) by inserting after subsection (b) the following new subsection:

“(c) SPECIAL RULES IN CASE OF MANAGED CARE REQUIREMENTS.—Subject to subsection (a)(2), the provisions of section 2706 and part C, and part D insofar as it applies to section 2706 or part C, shall not prevent a State from establishing requirements relating to the subject matter of such provisions so long as such requirements are at least as stringent on health insurance issuers as the requirements imposed under such provisions.”

(2) INDIVIDUAL HEALTH INSURANCE COVERAGE.—Section 2762 of such Act (42 U.S.C. 300gg-62), as added by section 605(b)(3)(B) of Public Law 104-204, is amended—

(A) in subsection (a), by striking “subsection (b), nothing in this part” and inserting “subsections (b) and (c)”, and

(B) by adding at the end the following new subsection:

“(c) SPECIAL RULES IN CASE OF MANAGED CARE REQUIREMENTS.—Subject to subsection (b), the provisions of section 2752 and part C, and part D insofar as it applies to section 2752 or part C, shall not prevent a State from establishing requirements relating to the subject matter of such provisions so long as such requirements are at least as stringent on health insurance issuers as the requirements imposed under such section.”

(d) ADDITIONAL CONFORMING AMENDMENTS.—

(1) Section 2723(a)(1) of such Act (42 U.S.C. 300gg-23(a)(1)) is amended by striking “part C” and inserting “parts C and D”.

(2) Section 2762(b)(1) of such Act (42 U.S.C. 300gg-62(b)(1)) is amended by striking “part C” and inserting “part D”.

(e) ASSURING COORDINATION.—Section 104(1) of the Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191)

is amended by striking "under this subtitle (and the amendments made by this subtitle and section 401)" and inserting "title XXVII of the Public Health Service Act, under part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, and chapter 100 of the Internal Revenue Code of 1986".

**SEC. 202. MANAGED CARE REQUIREMENTS UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.**

(a) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following new section:

**"SEC. 713. MANAGED CARE REQUIREMENTS.**

"(a) IN GENERAL.—Subject to subsection (b), a group health plan (and a health insurance issuer offering group health insurance coverage in connection with such a plan) shall comply with the applicable requirements of part C of title XXVII of the Public Health Service Act.

"(b) REFERENCES IN APPLICATION.—In applying subsection (a) under this part, any reference in such part C—

"(1) to a health insurance issuer and health insurance coverage offered by such an issuer is deemed to include a reference to a group health plan and coverage under such plan, respectively;

"(2) to the Secretary is deemed a reference to the Secretary of Labor;

"(3) to an applicable State authority is deemed a reference to the Secretary of Labor; and

"(4) to an enrollee with respect to health insurance coverage is deemed to include a reference to a participant or beneficiary with respect to a group health plan."

(b) MODIFICATION OF PREEMPTION STANDARDS.—Section 731 of such Act (42 U.S.C. 1191) is amended—

(1) in subsection (a)(1), by striking "subsection (b)" and inserting "subsections (b) and (c)";

(2) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(3) by inserting after subsection (b) the following new subsection:

"(c) SPECIAL RULES IN CASE OF MANAGED CARE REQUIREMENTS.—Subject to subsection (a)(2), the provisions of section 713 and part C of title XXVII of the Public Health Service Act, and subpart C insofar as it applies to section 713 or such part, shall not be construed to preempt any State law, or the enactment or implementation of such a State law, that provides protections for individuals that are equivalent to or stricter than the protections provided under such provisions."

(c) CONFORMING AMENDMENTS.—(1) Section 732(a) of such Act (29 U.S.C. 1185(a)) is amended by striking "section 711" and inserting "sections 711 and 713".

(2) The table of contents in section 1 of such Act is amended by inserting after the item relating to section 712 the following new item:

"Sec. 713. Managed care requirements."

**SEC. 203. MANAGED CARE REQUIREMENTS UNDER THE INTERNAL REVENUE CODE OF 1986.**

(a) IN GENERAL.—Subchapter B of part B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following new section:

**"SEC. 9813. MANAGED CARE REQUIREMENTS.**

"(a) IN GENERAL.—Subject to subsection (b), a group health plan shall comply with

the applicable requirements of part C of title XXVII of the Public Health Service Act.

"(b) REFERENCES IN APPLICATION.—In applying subsection (a) under this subchapter, any reference in such part C—

"(1) to the Secretary is deemed a reference to the Secretary of the Treasury; and

"(2) to an applicable State authority is deemed a reference to the Secretary."

(b) CLERICAL AMENDMENT.—The table of sections in subchapter B of chapter 100 of such Code is amended by inserting after the item relating to section 9812 the following new item:

"Sec. 9813. Managed care requirements."

**SEC. 204. MANAGED CARE REQUIREMENTS UNDER MEDICARE, MEDICAID, AND THE FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM (FEHBP).**

(a) MEDICARE.—Section 1852 of the Social Security Act (42 U.S.C. 1395w-22), as inserted by section 4001 of the Balanced Budget Act of 1997 (Public Law 101-33), is amended by adding at the end the following new subsection:

"(1) MANAGED CARE REQUIREMENTS.—Each Medicare+Choice organization that offers a Medicare+Choice plan described in section 1851(a)(1)(A) shall comply with the applicable requirements of part C of title XXVII of the Public Health Service Act in the same manner as such requirements apply with respect to health insurance coverage offered by a health insurance issuer, except to the extent such requirements are less protective of enrollees than the requirements established under this part."

(b) MEDICAID.—Section 1932(b)(8) of the Social Security Act, as added by section 4704(a) of the Balanced Budget Act of 1997, is amended—

(1) by striking "AND MENTAL HEALTH" and inserting "MENTAL HEALTH, AND MANAGED CARE";

(2) by inserting "and of part C" after "of part A"; and

(3) by inserting before the period at the end the following: ", except to the extent such requirements are less protective of enrollees than the requirements established under this title."

(c) FEDERAL EMPLOYEES' HEALTH BENEFITS PROGRAM (FEHBP).—Chapter 89 of title 5, United States Code, is amended—

(1) by inserting after the item relating to section 8905a the following new section:

**"§ 8905b. Application of managed care requirements**

"Each health benefit plan offered under this chapter shall comply with the applicable requirements of part C of title XXVII of the Public Health Service Act in the same manner as such requirements apply with respect to health insurance coverage offered by a health insurance issuer, except to the extent such requirements are less protective of enrollees than the requirements established under this chapter.;" and

(2) in the table of sections, by inserting the following item after the item relating to section 8905a:

"8905b. Application of managed care requirements."

**SEC. 205. EFFECTIVE DATES.**

(a) GENERAL EFFECTIVE DATE FOR GROUP HEALTH PLANS.—

(1) IN GENERAL.—Subject to paragraph (2), the amendments made by section 101, subsections (a), (c)(1), and (d) of section 201, and sections 203 and 204 shall apply with respect to group health insurance coverage for group health plan years beginning on or after July 1, 1998 (in this section referred to as the "general effective date") and also shall apply

to portions of plan years occurring on and after January 1, 1999.

(2) TREATMENT OF GROUP HEALTH PLANS MAINTAINED PURSUANT TO CERTAIN COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan, or group health insurance coverage provided pursuant to a group health plan, maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before the date of enactment of this Act, the amendments described in paragraph (1) shall not apply to plan years beginning before the later of—

(A) the date on which the last collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of enactment of this Act), or

(B) the general effective date.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by such amendments shall not be treated as a termination of such collective bargaining agreement.

(b) GENERAL EFFECTIVE DATE FOR HEALTH INSURANCE COVERAGE.—The amendments made by section 101 and subsections (b), (c)(2), and (d) of section 201 shall apply with respect to individual health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after the general effective date.

(c) EFFECTIVE DATE FOR COORDINATION.—The amendment made by section 201(e) shall take effect on the date of the enactment of this Act.

(d) FEDERAL PROGRAMS.—The amendments made by section 204 shall take effect on January 1, 1999.

By Mr. AKAKA:

S. 1500. A bill to amend the Hawaii Tropical Forest Recovery Act to establish voluntary standards for certifying forest products cultivated, harvested, and processed in tropical environments in Hawaii and to grant a certification for Hawaii tropical forest products that meet the voluntary standards, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

**THE HAWAII TROPICAL FOREST PRODUCTS CERTIFICATION ACT**

Mr. AKAKA. Madam President, today I am introducing legislation to establish voluntary standards for certifying tropical forest products grown in Hawaii. Senator INOUE has joined me in cosponsoring this measure.

Agriculture has long been the backbone of the economy of rural Hawaii. Recently, however, the decline of sugarcane has caused an upheaval for many of our rural communities. In the past 10 years, 21 sugarcane plantations have gone out of business and the State has lost 115,000 acres of sugarcane production.

For more than 160 years, sugar provided jobs and a special way of life for communities throughout the State. Cane is still king on Maui and parts of Kauai, but elsewhere it has disappeared from the agricultural map. Our great challenge is to develop new opportunities that keep Hawaii green and economically productive for at least as

long—and hopefully longer—than our relationship with sugar.

For many landowners, the future of rural Hawaii is in forestry. But what will forestry in Hawaii look like 10, 20, or 50 years from now? Many people have strong feelings about how to answer this question.

Sustainability is the emerging idea in forest development. This means practicing stewardship that integrates the growth, nurturing, and harvesting of trees with the conservation of soil, air, water, and wildlife. Sustainable forests are managed to serve the needs of the present generation without compromising the needs of future generations.

In Hawaii, the stewardship ethic is very strong, especially within the forestry community. Hawaii's tropical forests are home to some of the richest biological diversity on the planet, and our forest managers understand the importance of preserving our living heritage. But in many countries, stewardship and responsible forest development is weak or nonexistent.

Around the globe, forests are disappearing at an unprecedented rate, and nowhere is this problem more severe than in the tropics. More than half of the world's tropical rain forests have been consumed, degraded, or destroyed in this century.

Because of the attention being given to forest degradation, consumers are asking questions about the source of the wood demand, and foresters to supply wood products from well-managed forests.

As the demand for sustainable forest products has increased, criteria for sustainable forestry have been formalized. The result is a world-wide movement to verify that sustainable forestry claims are genuine. This process is known as certification.

In recent years, the Hawaii forestry industry has closely monitored the certification movement. The bill I am introducing today will prompt an important dialogue on certification. I am inviting all stakeholders in this issue—Hawaii's forest industry, landowners, conservation experts, and affected communities—to engage in a free and open exchange about forest certification.

What are the benefits of certification? For consumers, certification is a way of ensuring that forest products they purchase do not contribute to forest degradation. Independent verification of forestry practices is the Good Housekeeping Seal of Approval telling them that sustainable standards are being met.

To landowners, certification is a way of ensuring that their careful management is rewarded in the marketplace. A certification label may result in a premium for your products, better market access, and in some cases, more secure supply agreements. The best

way for the Hawaii forest industry to increase the value of their resource may be to sell certified tropical wood products into a world market that recognizes the abuse that tropical forests have suffered—and is willing to pay more for a tropical product that has received proper certification.

Just how widespread is certification today? Forest certification is big business. Certification is practiced in 25 countries. European and North American buyers groups are committed to wood products certification. Eleven nations, including Germany and France, are represented in the European buyers group.

Certification is voluntary, not mandatory, and my bill reflects this fact. Over time, however, landowners who do not employ sustainable practices and do not seek certification may find it more difficult to market their timber.

My bill will establish standards certifying that Hawaii forest products are cultivated, harvested, and processed in a sustainable manner. Although forestry certification standards are high, certification will not require perfection. Like agriculture, forestry is subject to the forces of nature, and nature is often unpredictable.

For certification to become successful in Hawaii, I believe that a bottom up rather than top down approach to consensus-building makes the most sense. With this in mind, in January, 1998, I will convene a meeting in Hawaii to further the dialog about forest certification and the bill I introduced today.

Certification can take root in Hawaii without action by Congress. However, my bill can jump start the dialog and provide a format for discussion. I will be the first one to cheer if certification becomes a reality with, or without, legislation by Congress.

By Mr. JEFFORDS:

S. 1501. A bill to amend the Employee Retirement Income Security Act of 1974 to improve protection for workers in multiemployer pension plans; to the Committee on Labor and Human Resources.

THE WORKERS' PENSION PROTECTION ACT OF 1997

Mr. JEFFORDS. Mr. President, I am today introducing the Workers' Pension Protection Act. This legislation will level the playing field for millions of American workers who currently participate in defined benefit multiemployer pension plans.

As I am certain many of my colleagues are aware, there is a difference between multiemployer and single-employer pension plans. Multiemployer plans are maintained by a specific union, and supported by the various employers that union has organized, whereas single-employer plans are established by one company for its own employees. Thus, the Central States Teamsters pension fund covers individ-

uals who work for employers the Teamsters have organized in the Midwestern United States. By contrast, General Electric has its a single-employer plan, or plans, that it established for its own employees.

This bill is only concerned with multiemployer pension plans. It protects workers' benefits by making sure that multiemployer plans are funded so that benefits promised today will be available when workers retire in the future. Many of this country's multiemployer pension plans are underfunded by billions of dollars. It is true that a plan can be underfunded by billions of dollars but the relationship of assets to liabilities can still be relatively high. However, we are looking at plans that are not only underfunded by large amounts, but also where liabilities seriously outstrip assets.

This legislation both increases funding and reporting requirements on multiemployer plans, so that we know when plans are becoming riskier, and improves protections and benefits. American workers rely upon their pensions to support them through their twilight years. Unfortunately pension plans are not infallible and too often, the American workers discover that their plan is bankrupt and that all pension payments are now in the hands of the Pension Benefit Guaranty Corporation [PBGC], the Federal agency charged with insuring defined benefit pension plans. What these workers may not realize is that under a single-employer plan, up to \$33,132 per year is protected by the PBGC's pension insurance, but under the multiemployer pension insurance system, they can only receive \$5,850. My legislation will not completely eliminate this unfairness, but it will slightly more than double the amount payable by the PBGC, by increasing benefits from \$5,850 to \$12,780. This change in the guaranty benefit amount would be the first increase to those benefits since the multiemployer program was enacted in 1980.

Next, this bill will require plans to fund their current pension promises before making new ones. Pension plan trustees would be unable to grant benefit increases if a plan is less than 95 percent funded. This provision is needed to keep underfunded plans from going deeper in the red if collective bargaining ignores the underfunding problem.

Third, this legislation will require multiemployer pension plans to use single, identified interest rate and mortality table assumptions in all calculations. As in the single-employer pension plan reform legislation of 1994, the interest rates and mortality tables must be standardized and must conform to the most recent data available. With this change, plans may not use one set of numbers when reporting the level of funding in their plan to the

PBGC, and another set of numbers when determining liability associated with a withdrawal from the plan. That amounts to manipulating interest rates to game the system. We require single-employer pension plans to use a specific interest rate and a mortality table. I believe it should apply to multi-employer plans, as well.

Fourth, the bill will require that plan trustees notify participants, annually and in plain English, of how well or poorly funded their plans are. Once and for all, multiemployer pension plan participants and beneficiaries will have a chance to learn how secure—or insecure—their retirement benefits are. It is one thing to tell a plan participant what his or her expected benefit will be upon retirement. It is quite another to let a participant know that their pension plan could have 45 percent more in liabilities than it has in assets, or that it may have accumulated \$5 billion in underfunding.

The PBGC has told us that notification to participants of plan funding has worked well for single-employer plans. Since it has been a success for the single-employer insurance system, we should extend the same protections to participants in multiemployer plans. With a better understanding of the worth of their benefits, workers can make informed decisions about their retirement needs. I think such notification is a vitally important participant protection for multiemployer pension plan participants.

Finally, the bill will increase premiums imposed by the PBGC upon sponsors of multiemployer pension plans. Currently, premiums are \$2.60 per participant but they have not been increased since the multiemployer guaranty program was enacted in 1980. By contrast, the single employer premium has been increased by Congress eight times since ERISA was passed in 1974. The minimum premium for fully funded single-employer plans is now \$19 per participant, but some underfunded plans are charged hundreds of dollars per participant for PBGC premiums. If we are going to raise multiemployer benefits, it is also time to raise multi-employer premiums. Over a 3-year period, my bill will double premiums, increasing them to \$5.20 per participant.

Mr. President, I realize that it is the end of the session. I am introducing this measure now in order to permit review and comment by interested parties in advance of hearings I will be holding on this issue next year. This bill takes modest, but overdue steps to protect participants of multiemployer pension plans. I hope that those concerned with the safety and security of, and equity in, multiemployer pension plans will not hesitate to step forward to be heard. There are slightly more than 1,800 multiemployer pension plans in this Nation providing benefits to approximately 8.7 million individuals.

This bill protects those workers and retirees—and they need and deserve our oversight. I encourage my colleagues in the Senate to join me in sponsoring this important piece of legislation.

By Mr. WELLSTONE:

S. 1503. A bill to protect the voting rights of homeless citizens; to the Committee on Rules and Administration.

THE VOTING RIGHTS OF HOMELESS CITIZENS ACT  
OF 1997

Mr. WELLSTONE. Mr. President, I rise today to introduce the Voting Rights of Homeless Citizens Act of 1997. I am proud to stand alongside the distinguished House sponsor of this bill, Representative JOHN LEWIS.

Mr. President, over the course of the last century, Congress has systematically removed the major obstacles that once prevented many of our citizens from voting. Not too long ago, only land-owning white men had the privilege of participating in our democracy. Women and minorities were prohibited from casting the ballot. More recently, people had to pay a poll tax or take a test in order to qualify to vote.

Before the civil rights movement, there were areas in the southern part of this country where the vast majority of the population was black, but there wasn't a single registered black voter. In 1964, three young men gave their lives while working to register people to vote in rural Mississippi. Many people over the course of our history have sacrificed their lives in order to expand voting rights for all Americans.

In 1964 President Lyndon Johnson proposed that we "eliminate every remaining obstacle to the right and opportunity to vote." Eight months later, this Congress passed the Voting Rights Act of 1965, making it possible for millions of Americans to participate in the political process for the first time.

Our Nation has made even more progress since then. The motor voter law made voter registration more accessible to working people. But our historic strides have not taken us far enough. The time is long overdue to ensure that every American has the opportunity to exercise this fundamental right. It is reprehensible that there are still American adults who are unable to partake of the most important right of citizenry.

The purpose of this legislation is to give the power to vote to homeless citizens of this country. The bill would remove the legal and administrative barriers that inhibit them from exercising this right. No one should be excluded from registering to vote simply because they do not have an address. But in many States, the homeless are left out and left behind. This is wrong. This is against the grain of this great nation.

I ask my colleagues to join me in opening the political process to every

American—even those without a home. I urge my colleagues to join me by co-sponsoring and supporting passage of the Voting Rights of Homeless Citizens Act of 1997.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1503

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the 'Voting Rights of Homeless Citizens Act of 1997'.

**SEC. 2. VOTING RIGHTS OF HOMELESS CITIZENS.**

No voting qualification or prerequisite to voting, or standard, practice, or procedure shall be imposed or applied by any State or political subdivision to deny or abridge the right of any citizen of the United States to vote because that citizen resides at or in a nontraditional abode.

**SEC. 3. ENFORCEMENT.**

The Attorney General may commence in the name of the United States a civil action (including an action against a State or political subdivision) or an aggrieved citizen may institute a proceeding under this Act, for injunctive relief against a violation of section 2.

**SEC. 4. RELATIONSHIP TO VOTING RIGHTS ACT OF 1965.**

This Act shall not be construed to impair any right guaranteed by the Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.).

**SEC. 5. DEFINITIONS.**

As used in this Act, the term 'nontraditional abode' includes—

(1) a supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill); and

(2) a public or private place not designated for, or ordinarily used as, regular sleeping accommodation for human beings.

**SEC. 6. EFFECTIVE DATE.**

This Act applies with respect to elections taking place after December 31, 1997.

By Mr. GRAHAM (for himself, Mr. MACK, Mr. KENNEDY, Mr. ABRAHAM, and Ms. MOSELEY-BRAUN):

S. 1504. A bill to adjust the immigration status of certain Haitian nationals who where provided refuge in the United States; to the Committee on the Judiciary.

THE HAITIAN REFUGEE IMMIGRATION FAIRNESS  
ACT OF 1997

Mr. GRAHAM. Mr. President, I commend my colleagues on reaching an agreement on what has been a very long and difficult negotiation relative to Central American and other immigrants. I note that we have in the Chamber at this time two of the Members of the House of Representatives who have been most active in achieving this result that is close to being reality, Congresswoman ILEANA ROS-LEHTINEN and Congressman LINCOLN DIAZ-BALART. I extend my special

thanks to them and congratulations on the success of their hard work.

Many months ago, these two fine Members of the House of Representatives, and others, including Senator MACK, Senator SPENCER ABRAHAM, and Senator KENNEDY, became interested in legislation that would provide justice and fairness for individuals who, due to duress, extreme hardship and political strife in their native countries, had been welcomed into our Nation by President Reagan and President Bush. I was proud to be part of this effort.

The agreement reached with our distinguished colleagues covers not only Central Americans, but also other groups who have struggled against oppression. While I strongly believe that this agreement is positive and is in the American tradition of fair play, it is an incomplete resolution. It is incomplete because there is another relatively small group of persons who have the same characteristics as those who are being recognized for whom legislation is being passed today as part of the District of Columbia appropriations bill. That group is Haitians.

There are 11,000 Haitians who, because of their credible asylum claims, were flown to the United States by our Government during the early 1990's. These were men, women and children, Mr. President, who had left Haiti because of the oppressive circumstances there.

Mr. President, this group of approximately 11,000 Haitians, who because of credible asylum claims were allowed to enter the United States in the early 1990s, were part of a much larger group of over 40,000 Haitians who had been detained at sea and temporarily were in a refuge status at our Guantanamo naval station.

These were the 11,000 of that larger group who were found, based on screenings administered by the Immigration Naturalization Service, to have a credible claim of persecution should they be returned to Haiti. The balance of those who could not meet that standard were in fact repatriated to Haiti.

There is a second group of similar size and significant overlap in terms of the individuals who are part of the asylum backlog. These are those who have had pending asylum cases since 1995.

Mr. President, I am pleased to be joined in introducing this legislation today which is entitled the Haitian Refugee Immigration Fairness Act of 1997, with my colleague Senator MACK, Senator KENNEDY, Senator ABRAHAM, and Senator CAROL MOSELEY-BRAUN.

Mr. President, fairness demands that we include this group in our legislation. First, this is a relatively small group. The two groups together, the Guantanamo asylees and those who have a pending asylum case combined, represent approximately 15,000 to 16,000 individuals. This, in relationship to

those who we are providing essentially the same status to today, is a relatively small number.

Second, this group has been extensively screened. As I indicated, the Guantanamo asylees represent approximately one out of four of those persons who were, at one time, at the Guantanamo Naval Base and who were found to have a credible legitimate fear of persecution in Haiti.

I might say, Mr. President, as one who visited Haiti several times during this very tense period in the late 1980s and early 1990s, the level of human rights abuses, the savagery, the violence were extreme. And these persons who established if they had been returned to Haiti at that time, that they would have been significantly at risk, they were at risk in a very legitimately violent and hostile environment.

Deportations of this group, Mr. President, have already begun. Asylum officers have begun to send back members of the Haitian community to Haiti. And so there is a sense of urgency of dealing with this legislation before any additional injustices are committed.

And finally, the Guantanamo Haitians have established families in the United States. Many have had children born here who are United States citizens. They have opened businesses. They have built homes. They have strengthened our community here in the United States. They contribute to the diversity, the racial and social harmony, the positive traits of our increasingly multicultural Nation.

Mr. President, I would hope someday to have the opportunity to invite you to join me at Miami Dade Community College, which happens to be the largest community college in the Nation based on enrollment. It is inspiring to go to that campus, one of their several campuses, and see the number of young Haitian men and women who are living the American dream of hard work and education and advancing themselves so that they can better serve the interests of their families and our Nation.

This is a quality group of people who have made and will make significant contributions to our Nation.

They are making a contribution in many ways today. As an example, we have in Haiti a large number of Americans of Haitian heritage who are currently serving as mentors to the newly established police force in Haiti. They are helping to make an organization which did not exist a few years ago because there was no police force, all police activities were done through the military and often done in a very aggressive manner.

We are attempting to build a new institution to provide for security in Haiti. A key element of that are the large numbers of Americans of Haitian background who are assisting in that important effort within their former country.

That is just one dramatic example of the contributions which this community is making to their new home in America.

Mr. President, I ask my colleagues today to continue the fight for justice and fairness. We have taken a significant step in that effort tonight with the passage of the District of Columbia appropriations bill, which seems to be an odd place for such an important immigration bill to be lodged, but it is placed there.

This legislation will continue that effort by applying a similar standard of fair treatment to this important population of Haitians within our Nation.

I send to the desk the legislation and ask for its referral.

The PRESIDING OFFICER. It will be received and appropriately referred.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1504

*Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Haitian Refugee Immigration Fairness Act of 1997".

**SEC. 2. ADJUSTMENT OF STATUS OF CERTAIN HAITIAN NATIONALS.**

(a) ADJUSTMENT OF STATUS.—

(1) IN GENERAL.—Notwithstanding section 245(c) of the Immigration and Nationality Act, the status of any alien described in subsection (b) shall be adjusted by the Attorney General to that of an alien lawfully admitted for permanent residence, if the alien—

(A) applies for such adjustment before April 1, 2000; and

(B) is otherwise eligible to receive an immigrant visa and is otherwise admissible to the United States for permanent residence, except in determining such admissibility the grounds for inadmissibility specified in paragraphs (4), (5), (6)(A), and (7)(A) of section 212(a) of the Immigration and Nationality Act shall not apply.

(2) RELATIONSHIP OF APPLICATION TO CERTAIN ORDERS.—An alien present in the United States who has been ordered excluded, deported, removed, or ordered to depart voluntarily from the United States under any provision of the Immigration and Nationality Act may, notwithstanding such order, apply for adjustment of status under paragraph (1). Such an alien may not be required, as a condition on submitting or granting such application, to file a motion to reopen, reconsider, or vacate such order. If the Attorney General grants the application, the Attorney General shall cancel the order. If the Attorney General renders a final administrative decision to deny the application, the order shall be effective and enforceable to the same extent as if the application had not been made.

(b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STATUS.—The benefits provided by subsection (a) shall apply to any alien who is a national of Haiti—

(1) who filed for asylum before December 31, 1995, or was paroled into the United States prior to December 31, 1995, after having been identified as having a credible fear

of persecution or paroled for emergent reasons or reasons deemed strictly in the public interest, and

(2) has been physically present in the United States for at least 1 year and is physically present in the United States on the date the application for such adjustment is filed, except an alien shall not be considered to have failed to maintain continuous physical presence by reason of an absence, or absences, from the United States for any periods in the aggregate not exceeding 180 days.

(c) STAY OF REMOVAL.—

(1) IN GENERAL.—The Attorney General shall provide by regulation for an alien subject to a final order of deportation or removal or exclusion to seek a stay of such order based on the filing of an application under subsection (a).

(2) DURING CERTAIN PROCEEDINGS.—Notwithstanding any provision of the Immigration and Nationality Act, the Attorney General shall not order any alien to be removed from the United States, if the alien is in exclusion, deportation, or removal proceedings under any provision of such Act and raises as a defense to such an order the eligibility of the alien to apply for adjustment of status under subsection (a), except where the Attorney General has rendered a final administrative determination to deny the application.

(3) WORK AUTHORIZATION.—The Attorney General may authorize an alien who has applied for adjustment of status under subsection (a) to engage in employment in the United States during the pendency of such application and may provide the alien with an "employment authorized" endorsement or other appropriate document signifying authorization of employment, except that if such application is pending for a period exceeding 180 days, and has not been denied, the Attorney General shall authorize such employment.

(d) ADJUSTMENT OF STATUS FOR SPOUSES AND CHILDREN.—

(1) IN GENERAL.—Notwithstanding section 245(c) of the Immigration and Nationality Act, the status of an alien shall be adjusted by the Attorney General to that of an alien lawfully admitted for permanent residence, if—

(A) the alien is a national of Haiti;

(B) the alien is the spouse, child, or unmarried son or daughter, of an alien whose status is adjusted to that of an alien lawfully admitted for permanent residence under subsection (a), except that in the case of such an unmarried son or daughter, the son or daughter shall be required to establish that they have been physically present in the United States for at least 1 year and is physically present in the United States on the date the application for such adjustment is filed.

(C) the alien applies for such adjustment and is physically present in the United States on the date the application is filed; and

(D) the alien is otherwise eligible to receive an immigration visa and is otherwise admissible to the United States for permanent residence, except in determining such admissibility the grounds for exclusion specified in paragraphs (4), (5), (6)(A), and (7)(A) of section 212(a) of the Immigration and Nationality Act shall not apply.

(2) PROOF OF CONTINUOUS PRESENCE.—For purposes of establishing the period of continuous physical presence referred to in paragraph (1)(B), an alien shall not be considered to have failed to maintain continuous physical presence by reason of an absence, or absences, from the United States for any periods in aggregate not exceeding 180 days.

(e) AVAILABILITY OF ADMINISTRATIVE REVIEW.—The Attorney General shall provide to applicants for adjustment of status under subsection (a) the same right to, and procedures for, administrative review as are provided to—

(1) applicants for adjustment of status under section 245 of the Immigration and Nationality Act; or

(2) aliens subject to removal proceedings under section 240 of such Act.

(f) LIMITATION ON JUDICIAL REVIEW.—A determination by the Attorney General as to whether the status of any alien should be adjusted under this section is final and shall not be subject to review by any court.

(g) NO OFFSET IN NUMBER OF VISAS AVAILABLE.—When an alien is granted the status of having been lawfully admitted for permanent resident pursuant to this section, the Secretary of State shall not be required to reduce the number of immigrant visas authorized to be issued under any provision of the Immigration and Nationality Act.

(h) APPLICATION OF IMMIGRATION AND NATIONALITY ACT PROVISIONS.—Except as otherwise specifically provided in this Act, the definitions contained in the Immigration and Nationality Act shall apply in the administration of this section. Nothing contained in this Act shall be held to repeal, amend, alter, modify, effect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of such Act or any other law relating to immigration, nationality, or naturalization. The fact that an alien may be eligible to be granted the status of having been lawfully admitted for permanent residence under this section shall not preclude the alien from seeking such status under any other provision of law for which the alien may be eligible.

Mr. KENNEDY. Mr. President, it is a privilege to join Senator GRAHAM, Senator MACK, Senator ABRAHAM, and Senator MOSELEY-BRAUN in introducing legislation providing permanent residence to Haitian refugees.

The Senate has now adopted legislation to enable Nicaraguan and Cuban refugees to remain permanently in the United States as immigrants, and to enable Salvadorans and Guatemalans to seek similar relief on a case-by-case basis.

Haitian refugees deserve no less.

These families fled violence, torture, murder and other atrocities in Haiti. The Bush administration and the Clinton administration found that the vast majority of these refugees fled from Haiti because of a legitimate fear of persecution.

These deserving Haitian refugees have resettled in many different States. They brought with them an unparalleled love of freedom, and a strong commitment to our democracy. They honor the opportunity that America offers.

They were welcomed by churches and neighborhood groups, who have helped them rebuild their lives in communities across America. Today, they are contributing and valued members of our society.

Immigration relief for Haitian refugees should have been included in the legislation to assist the refugees from Central America.

President Clinton wrote to Speaker GINGRICH to emphasize the importance of comparable relief for Haitian refugee families at a time when Congress was acting on relief for other refugees. Haitian refugees deserve the same immigration opportunities that the Republican leadership is proposing for refugees from Central America.

But the Republican leadership in Congress said no. They even rejected our efforts at least to provide immediate relief from deportation for Haitian families.

While the Republicans said no to these refugees, I understand that the Clinton administration will be taking steps to assure these Haitian families that they will be protected from deportation while Congress considers legislation in the coming months to allow the families to seek permanent residence here.

And I commend Senator MOSELEY-BRAUN for her extraordinary leadership in working with the administration to achieve this important result, as well as Representative CARRIE MEEK for her tireless efforts for Haitian refugees.

The legislation we are introducing will provide the fair relief that is greatly needed. It is a matter of simple justice.

It should be adopted as soon as possible and I regret it was not part of the measure enacted today.

Ms. MOSELEY-BRAUN. Mr. President, I am pleased to join Senators MACK, KENNEDY, ABRAHAM, and GRAHAM in introducing the Haitian Refugee Immigration Fairness Act of 1997. I believe that this legislation will help mend a current shortcoming in the law.

During the early 1990's, our country flew in some 11,000 Haitians who fled the oppressive and dangerous conditions in their homeland during the overthrow of Haiti's democratically elected government. As you may know, this coup was marked by atrocious human rights abuses, including systematic use of rape and murder as weapons of terror. The International Civilian Mission, which has monitored human rights conditions throughout Haiti, documented this tragedy, including horrors so awful as to be almost imaginable.

To allow such human rights violations to occur so close to home, while doing nothing would have been inconsistent with the stated goals of our foreign policy. So in 1991, the United States took in persons fleeing Haiti at Guantanamo Bay, Cuba. After intense screening, many of these individuals were paroled into the United States to apply affirmatively for asylum. Between October 1991 and May 1992, over 30,000 Haitians were interviewed. Less than one-third of these individuals were paroled into the United States to seek asylum.

For the past 6 years, these individuals have had pending asylum cases

with the Immigration and Naturalization Service. Now, despite the fact that these individuals have become a viable part of our Nation's communities, deportation of these Haitians has begun. The individuals that I am talking about today are the children, wives, brothers, and sisters of soldiers and activists who stood up for democracy in Haiti and suffered a great deal because of the strength of their convictions. They fled to this country for refuge. They played by our rules. In the time that they've been here, they've built homes, paid taxes, and raised families in our country.

Two Presidential administrations have promised this class of people relief, and I believe that we have an obligation to make good on those promises. There is no excuse not to give them the relief similar to the relief that we have just recently granted to some 250,000 similarly situated Central American nationals.

I believe that in order to be equitable and fair, we must grant similar relief to this small group of individuals. This bill grants that relief. I urge my colleagues to join me in supporting this legislation, and look forward to working with everyone to see that this issue is equitably resolved.

By Mr. LOTT (for himself, Mr. DASCHLE, and Mr. WARNER):

S. 1508. A bill to authorize the Architect of the Capitol to construct a Capitol Visitor Center under the direction of the United States Preservation Commission, and for other purposes; to the Committee on Rules and Administration.

LEGISLATION AUTHORIZING THE CONSTRUCTION OF A CAPITOL VISITORS CENTER

Mr. WARNER. Mr. President, I rise as an original cosponsor of this legislation that will authorize the Architect of the Capitol to construct a Capitol Visitor Center under the direction of the U.S. Capitol Preservation Commission.

The construction of a Capitol Visitor Center is a matter that has been discussed and contemplated for many years. In fact, both the current and the preceding Architect of the Capitol have reviewed and supported the project. Over the years, I have personally been involved in numerous Rules Committee hearings and briefings on the subject.

In my view, the time has come for Congress to move ahead with this project. This legislation is an important step in that direction in that it directs the Capitol Preservation Commission to develop a detailed financial plan for constructing the project, largely with funds donated by the American people.

The Capitol is the second most visited building in the entire Washington, DC area, having nearly 35,000 visitors pass through its doors every day. For many visitors there are long lines and

waits in hot sticky weather, or cold wet weather, as there is no place for visitors to gather in preparation for their tour through the Capitol.

The Capitol Visitor Center will have a tremendous, positive impact on the informational and educational experience afforded visitors to the Capitol. It will provide information regarding the history and role of Congress, along with additional information about the visitor's Representative and Senators.

But for me, the most compelling need for the Capitol Visitor Center is to add a major element of enhanced security for the entire Capitol building and environs. During the recent Capitol security hearings held in the Senate Rules Committee, the security benefits that a Capitol Visitor Center will provide were outlined clearly by the Capitol Police Board. I strongly believe that the security benefits provided by a Capitol Visitor are not to be taken lightly.

I hope all Members will support this important legislation that will greatly enhance the experience visitors receive when visiting our Nations Capitol.

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 1509. A bill to authorize the Bureau of Land Management to use vegetation sales contracts in managing land at Fort Stanton and certain nearby acquired land along the Rio Bonita in Lincoln County, New Mexico, to the Committee on Energy and Natural Resources.

THE FORT STANTON AND RIO BONITO CORRIDOR VEGETATION MANAGEMENT ACT

Mr. DOMENICI. Mr. President, I rise to introduce a bill to authorize the Bureau of Land Management to generate funds for the management of Fort Stanton and the Rio Bonito Corridor in Lincoln County, NM. These funds will be raised by authorizing the use of vegetation sales contracts, which will allow the use of forage for livestock grazing.

The Fort Stanton and Rio Bonito Corridor Vegetation Management Act will provide livestock producers with opportunities for additional grazing in the Fort Stanton area, while providing the Bureau of Land Management [BLM] the flexibility to manage the lands in this area according to the recently approved Roswell Area Resource Management Plan.

Mr. President, as background, land in the Fort Stanton area has been acquired by the BLM through purchase, exchange, and transfer from the State of New Mexico. Fort Stanton itself came under the jurisdiction of the BLM by transfer from the U.S. General Services Administration in 1956. Certain tracts along the Rio Bonito in the Fort Stanton area came to the BLM by exchange in 1995. These lands are highly valued for their unique cultural, historic, and natural resources.

General, livestock grazing is managed by the BLM according to a number of laws, including the Taylor Grazing Act, and the regulations that implement those laws. Currently, the Fort Stanton area lands are not within an established grazing district, and are not administered under the Taylor Grazing Act. To continue maintaining and improving the resources of these lands, and to fulfill the management objectives established through the Federal Land Policy and Management Act [FLPMA] planning process, the BLM needs additional management flexibility. The management of vegetation under this additional flexibility will allow for improvement of watershed conditions and wildlife habitat, and will allow for the development of additional recreational opportunities on these public lands, all of which provide benefits for the people and economy of Lincoln County, NM.

The use of livestock grazing in this area has been employed successfully by the BLM in the past. Rangeland improvements and vegetation treatments will emphasize the needs of wildlife and improve watershed management as intended under the current management plan. The use of vegetation sales contracts authorized by this legislation will allow the BLM to use livestock grazing without establishing grazing preferences on these lands.

Finally, Mr. President, the proceeds from vegetation sales contracts will provide additional money for the BLM to use in the management of Fort Stanton and the Rio Bonito Corridor. When offered by the BLM, these contracts will be sold to the highest bidder, who will then be permitted to graze livestock in this area under specific terms and conditions. Some will wonder how the Senator from New Mexico, who has consistently opposed the policy of competitive bidding for grazing permits on public lands, could offer such a proposal. Quite simply, Mr. President, the BLM's management plan for this area provides the rancher bidding on these contracts with facilities and a number of services at Fort Stanton, that it simply cannot provide on the vast majority of the 270 million acres it is charged with managing. This area will be similar to the furnished apartment—where facilities and services are provided by the BLM as a part of the contract—which my colleagues have heard used as a comparison on the Senate floor in the past. Grazing permits offered on other public domain lands remain the unfurnished apartment—where the BLM provides no facilities or services to grazing permittees.

At Fort Stanton, the BLM will be responsible for maintaining and operating the watering facilities, and will not require the lessee to construct improvements and pay for them out of his

own pocket. Additionally, the BLM already owns all of the livestock handling facilities at Fort Stanton, and the lessee will be allowed to use them as a part of the contract. Under this legislation, part of the proceeds from the sale of these contracts will be available for BLM to provide improvements to existing facilities, and a greater level of onsite management than is available on other public lands. An additional difference is that this public land has not been an integral part of an established ranch for the past 60 years, at least not in the same manager as public land ranches governed by the Taylor Grazing Act. This means that providing opportunities for competitive bidding in this area will not remove the heart of an existing family ranch that has been in operation for several generations.

Mr. President, I am hopeful that the Senate will be able to move this legislation through Congress rapidly next year, and I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1509

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Fort Stanton and Rio Bonito Corridor Vegetation Management Act".

#### SEC. 2. FINDINGS.

Congress finds that—

(1) the lands under the jurisdiction of the Secretary surrounding Fort Stanton, New Mexico, contain historic and natural resources that warrant special management considerations by the Bureau of Land Management;

(2) the adjudication process for establishing grazing preferences under the Act of June 28, 1934 (commonly known as the "Taylor Grazing Act") (43 U.S.C. 315 et seq.) and other applicable laws has not been conducted on lands acquired by the Secretary at and near Fort Stanton, New Mexico, including lands along the Rio Bonito in Lincoln County, New Mexico;

(3) in the management of renewable forage resources on lands surrounding Fort Stanton, New Mexico, vegetation sales contracts would be a beneficial tool for the Bureau of Land Management to use to maintain and enhance the condition of the forage and other natural resources of the area;

(4) the management of grazing animals under vegetation sales contracts requires fiscal resources and personnel that exceed that of the grazing preference system in place on other public domain lands; and

(5) disputes over the legal description of lands acquired by the Secretary along the Rio Bonito in Lincoln County, New Mexico, make it necessary for the Bureau of Land Management to pursue reasonable legal remedies under existing authorities to resolve such disputes with adjacent landowners.

#### SEC. 3. DEFINITIONS.

(1) FORT STANTON.—The term "Fort Stanton" means land under the administrative jurisdiction of the Secretary at Fort Stan-

ton, New Mexico, as depicted on the map entitled "Fort Stanton and Rio Bonito Corridor, NM", dated May 13, 1997.

(2) RIO BONITO CORRIDOR.—The term "Rio Bonito Corridor" means land under the administrative jurisdiction of the Secretary near Fort Stanton, New Mexico, within the area identified as the "Rio Bonito Corridor", as depicted on the map entitled "Fort Stanton and Rio Bonito Corridor, NM", dated May 13, 1997, which—

(A) was acquired by the Secretary before May 13, 1997; or

(B) is acquired by the Secretary (by purchase or exchange) from willing landowners after May 13, 1997.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior, acting through the Director of the Bureau of Land Management.

#### SEC. 4. MAPS.

The maps referred to in section 3 shall be made available for public inspection by the Bureau of Land Management at the Roswell District Office in Roswell, New Mexico, and at the New Mexico State Office in Santa Fe, New Mexico.

#### SEC. 5. MANAGEMENT OF FORT STANTON AND RIO BONITO LAND.

(a) IN GENERAL.—Notwithstanding any provision of the Act of June 28, 1934 (43 U.S.C. 315 et seq.), or any other law relating to the establishment, leasing, or permitting of grazing under a grazing preference, the Secretary, in managing land within Fort Stanton and the Rio Bonito Corridor that is under the jurisdiction of the Secretary, may solicit competitive bids for and enter into vegetation sales contracts for the purpose of using livestock grazing as a vegetation management tool. Any such contracts entered into with respect to the land before the date of enactment of this Act are ratified.

(b) CONSISTENCY WITH LAND AND RESOURCE MANAGEMENT PLANS.—Management of Fort Stanton and the Rio Bonito Corridor shall be consistent with any applicable land and resource management plan under the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

(c) DISTRIBUTION AND USE OF PROCEEDS.—Of the proceeds of vegetation sales contracts entered into under subsection (a)—

(1) 12½ percent shall be paid to the State of New Mexico for distribution to Lincoln County, New Mexico, to be used for purposes authorized by section 10 of the Act of June 28, 1934 (43 U.S.C. 315);

(2) 12½ percent shall be deposited in the general fund of the Treasury of the United States; and

(3) 75 percent shall be deposited in a special account in the Treasury of the United States and shall be available to the Secretary, without further Act of appropriation, for use in managing Fort Stanton and the Rio Bonito Corridor and to achieve the management goals and prescriptions identified in applicable resource management plans for the Rio Bonito acquired lands and the Fort Stanton area of critical environmental concern, but none of the proceeds provided to the Secretary under this paragraph shall be available for land acquisition.

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 1510. A bill to direct the Secretary of the Interior and the Secretary of Agriculture to convey certain lands to the county of Rio Arriba, New Mexico; to the Committee on Energy and Natural Resources.

#### THE RIO ARRIBA, NEW MEXICO LAND CONVEYANCE ACT OF 1997

Mr. DOMENICI. Mr. President, today, I am introducing legislation that I believe will provide long-term benefits for the people of Rio Arriba County, New Mexico. This legislation will direct the Secretaries of the Interior and Agriculture to convey real property and improvements at an abandoned and surplus administrative site for the Carson National Forest to Rio Arriba County. The site is known as the old Coyote Ranger District Station, near the small town of Coyote, New Mexico.

This legislation is patterned after a similar transfer that the 103rd Congress directed the Secretary of Agriculture to complete on the old Taos Ranger District Station in 1993. As with the Taos station, the Coyote Station will continue to be used for public purposes, including a community center, and a fire substation. Some of the buildings will also be available for the County to use for storage and repair of road maintenance equipment, and other County vehicles.

Mr. President, the Forest Service has determined that this site is of no further use to them, since they have recently completed construction of a new administrative facility for the Coyote Ranger District. In an October 22 letter from the Regional Forester of the Southwest Region, I was informed that on August 7, the Forest Service reported to the General Services Administration that the improvements on the site were considered surplus, and would be available for disposal under their administrative procedures. At this particular site, however, the land on which the facilities have been built is withdrawn public domain land, under the jurisdiction of the Bureau of Land Management.

Because of the complicating factor of the land and the facilities being under the jurisdiction of two separate Departments of the Federal government, I believe that this directed conveyance to Rio Arriba County will provide for a more efficient and expedited transfer. Under administrative processes, not only will the Departments of the Interior and Agriculture have to go through their respective procedures, but there will likely be some involvement of the General Services Administration. This legislation simply directs the Secretaries of the Interior and Agriculture to negotiate the terms and conditions of the conveyance directly with officials from Rio Arriba County.

Mr. President, since neither the Bureau of Land Management nor the Forest Service have any interest in maintaining Federal ownership of this land and the surplus facilities, I believe that this should be a relatively straightforward issue for Congress to address. I hope that we will be able to act on this legislation quickly next spring.

In closing, Mr. President, I want to thank the Senate for its consideration,

and ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1510

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. OLD COYOTE ADMINISTRATIVE SITE.**

(a) CONVEYANCE OF PROPERTY.—Not later than 180 days after the date of enactment of this Act, the Secretary of the Interior and the Secretary of Agriculture shall convey by quit-claim deed to the county of Rio Arriba, New Mexico, subject to the terms and conditions stated in subsection (b), all right, title, and interest of the United States in and to the land (including all improvements on the land) known as the "Old Coyote Administrative Site" located approximately ½ mile east of the Village of Coyote, New Mexico on State Road 96, comprising 1 tract of 130.27 acres and 1 tract of 276.76 acres.

(b) TERMS AND CONDITIONS.—

(1) CONSIDERATION.—The conveyance described in subsection (a) shall be in consideration of an amount that is agreeable to the Secretary of the Interior, the Secretary of Agriculture, and the county of Rio Arriba, New Mexico, payable in full within the 6-month period referred to in subsection (a), or, at the option of the county, in 20 annual payments due on January 1 of the first year beginning after the date of enactment of this Act and annually thereafter until the total amount due has been paid. The county shall not be charged interest on amounts owed the United States for the conveyance.

(2) RELEASE.—On conveyance of the property under subsection (a), the county shall release the United States from any liability for claims relating to the property.

(3) REVERSION.—The conveyance under subsection (a) shall be a conveyance fee simple title to the property, subject to reversion to the United States if the property is used for other than public purposes or if the consideration requirements under paragraph (1) are not met.

By Mr. LAUTENBERG (for himself, Mr. D'AMATO, Mr. MOYNIHAN, and Mr. TORRICELLI):

S. 1512. A bill to amend section 659 of title 18, United States Code; to the Committee on the Judiciary.

Mr. LAUTENBERG. Mr. President, I rise to introduce legislation with Senators D'AMATO, MOYNIHAN, and TORRICELLI that addresses the growing problem of cargo theft. This crime, which covers the interstate theft of cargo from ports, airports, rails, and roads, causes losses as high as \$10 billion a year in the United States. The "Cargo Theft Deterrence Act of 1997" increases the incentive for prosecutors to pursue this crime and for defendants to cooperate with law enforcement. Furthermore, this legislation clarifies what is covered by existing law.

Cargo theft continues unabated as criminals discover that the risks of getting caught and prosecuted are far lower than for comparably lucrative crimes. This tends to be an under-reported crime that has received a relatively small amount of attention by

Congress. I believe this must change. Mr. President, let me cite a few statistics that should demonstrate to my colleagues the seriousness of this crime and why we should act. In 1994, the dollar value in goods stolen from a single tractor-trailer rig in New Jersey was higher than all of the bank robberies combined in my state for that year.

While certain regions of the United States, such as New Jersey/New York, Southern California, and South Florida, sustain higher cargo theft losses than others, consumers nationwide are affected. For example, one industry group estimated that computers cost an average of \$150 more because of cargo theft, and that approximately \$3.5 billion of computers, chips, and software are stolen annually. The risk management director for one computer company said that "it's a rare company that hasn't ever lost a truck." Most people do not realize that the value of computer chips per pound is higher than gold. And, unfortunately, the resale value of stolen items is much higher than what one might believe. Many of these goods end up overseas while others are sold in the same city.

Mr. President, virtually no product is safe from this crime. While theft of computers and computer products, fragrances, and designer clothes are not uncommon, items ranging from frozen seafood, pineapple pulp, cough drops, refried beans, and insulation have been reported stolen.

The industry maxim of "cargo at rest is cargo at risk" is no longer a truism—all cargo is a risk—and contrary to the belief that this is a victimless crime, an alarming number of tractor trailers have been hijacked. This occurred just several weeks ago in New Jersey, when a truck was hijacked right after leaving a port. Fortunately the driver was unharmed though one million dollars' worth of clothes were stolen. Tighter measures taken by port authorities and manufacturers at their plants have caused such hijackings to increase.

Mr. President, the need for this legislation is not a criticism of our law enforcement. The Port Authority of New York & New Jersey, for example, has made significant strides at curbing this crime in the New Jersey/New York region. Unfortunately, existing law does not provide an adequate deterrent because the penalties are not sufficiently severe nor is there an incentive for defendants to cooperate with prosecutors.

Let me explain, Mr. President, what my legislation will do. It will bring efforts to fight this crime into the next century. Enacted in its earliest form in 1913, the statute that my bill modifies covers such older modes of transportation and distribution of cargo as wagons, depots, and steamboats. My bill recognizes the advances we have made in intermodal connections and

transportation by adding such terms as "trailer," "air cargo container," and "freight consolidation facility." The days of cargo theft from wagons are gone. Furthermore, the Cargo Theft Deterrence Act broadens the statute's coverage to clarify that cargo is moving as an interstate or foreign shipment at all points between the point of origin and the final destination. Merely because a container is temporarily at rest awaiting transport to its final destination should not prevent law enforcement from prosecuting a defendant under this statute. Existing law currently covers cargo moving as a part of interstate or foreign commerce.

My legislation increases the penalties for convictions under this statute. Current law provides that those convicted of this provision shall be fined or imprisoned not more than one year, or both. My bill increases this maximum prison term to three. This statute, as currently written, requires the government to prove that not only did a defendant embezzle, steal, or unlawfully take the cargo, it must show that he did so with the intent to convert to his own use. This seems duplicative at best and is an unnecessary hurdle for the prosecutor to demonstrate. The Cargo Theft Deterrence Act eliminates the term, "with intent to convert to his own use" from this statute. Since we have removed this intent language, we have created the affirmative defense that the defendant bought, received, or possessed the cargo with the sole intent of reporting the matter to either law enforcement or the owner of the cargo.

The Sentencing Commission is directed to provide a sentencing enhancement of two levels for this crime similar to enhancements made for offenses involving organized schemes to steal vehicles or if the offense involved more than minimal planning. This Act also requires the Attorney General to report annually to Congress on the progress made by law enforcement investigating and prosecuting this crime. Additionally, upon motion by the Attorney General, a court may reduce the penalties if a defendant cooperates with law enforcement. Use of informants is essential in reducing this crime and this provision creates an appropriate incentive.

Finally, Mr. President, my legislation creates a Cargo Theft Advisory Committee that will study and make recommendations about the establishment of a national data base of information about this crime. A constant complaint by industry and law enforcement is that there is a lack of good data about cargo theft. Industry tends to under-report it and law enforcement frequently classifies it in such categories as theft, robbery, hijacking, and burglary. This Committee, which shall exist for one year and report its

findings and recommendations to Congress and the President, will also review the desirability of creating a centralized office within the federal government to oversee efforts designed to curb cargo theft and to increase coordination with the private sector, and state and local law enforcement.

Mr. President, I thought an advisory committee was the most prudent course because legitimate questions have been raised about whether this data base should be maintained by the public or private sector, who should be able to access it, and what information should be collected, yet remain confidential. Moreover, there are several logical agencies that could house an office on cargo security so I thought it is appropriate to have cargo security experts in both the public and private sector make this recommendation.

Mr. President, I look forward to the Judiciary Committee's consideration of this legislation and urge my colleagues to support this first step in addressing this crime that affects all Americans. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1512

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Cargo Theft Deterrence Act of 1997".

#### SEC. 2. INTERSTATE OR FOREIGN SHIPMENTS BY CARRIER.

(a) IN GENERAL.—Section 659 of title 18, United States Code, is amended—

(1) by striking "with intent to convert to his own use" each place that term appears;

(2) in the first undesignated paragraph—  
(A) by inserting "trailer," after "motortruck,";

(B) by inserting "air cargo container," after "aircraft,"; and

(C) by inserting " , or from any intermodal container, trailer, container freight station, warehouse, or freight consolidation facility," after "air navigation facility";

(3) in the fifth undesignated paragraph—

(A) by striking "one year" and inserting "3 years"; and

(B) by adding at the end the following: "Notwithstanding the preceding sentence, the court may, upon motion of the Attorney General, reduce any penalty imposed under this paragraph with respect to any defendant who provides information leading to the arrest and conviction of any dealer or wholesaler of stolen goods or chattels moving as or which are a part of or which constitute an interstate or foreign shipment.";

(4) in the penultimate undesignated paragraph, by inserting after the first sentence the following: "For purposes of this section, goods and chattel shall be construed to be moving as an interstate or foreign shipment at all points between the point of origin and the final destination (as evidence by the waybill or other shipping document of the shipment), regardless of any temporary stop while awaiting transshipment or otherwise."; and

(5) by adding at the end the following:

"It shall be an affirmative defense (on which the defendant bears the burden of persuasion by a preponderance of the evidence) to an offense under this section that the defendant bought, received, or possessed the goods, chattels, money, or baggage at issue with the sole intent to report the matter to an appropriate law enforcement officer or to the owner of the goods, chattels, money, or baggage."

(b) FEDERAL SENTENCING GUIDELINES.—Pursuant to section 994 of title 28, United States Code, the United States Sentencing Commission shall amend the Federal sentencing guidelines to provide a sentencing enhancement of not less than 2 levels for any offense under section 659 of title 18, United States Code, as amended by this section.

(c) REPORT TO CONGRESS.—The Attorney General shall annually submit to Congress a report, which shall include an evaluation of law enforcement activities relating to the investigation and prosecution of offenses under section 659 of title 18, United States Code, as amended by this section.

#### SEC. 3. ADVISORY COMMITTEE ON CARGO THEFT.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established a Committee to be known as the Advisory Committee on Cargo Theft (in this section referred to as the "Committee").

(2) MEMBERSHIP.—

(A) COMPOSITION.—The Committee shall be composed of 6 members, who shall be appointed by the President, of whom—

(i) 1 shall be an officer or employee of the Department of Justice;

(ii) 1 shall be an officer or employee of the Department of Transportation;

(iii) 1 shall be an officer or employee of the Department of the Treasury; and

(iv) 3 shall be individuals from the private sector who are experts in cargo security.

(B) DATE.—The appointments of the initial members of the Committee shall be made not later than 3 days after the date of enactment of this Act.

(3) PERIOD OF APPOINTMENT; VACANCIES.—Each member of the Committee shall be appointed for the life of the Committee. Any vacancy in the Committee shall not affect its powers, but shall be filled in the same manner as the original appointment.

(4) INITIAL MEETING.—Not later than 15 days after the date on which all initial members of the Committee have been appointed, the Committee shall hold its first meeting.

(5) MEETINGS.—The Committee shall meet, not less frequently than quarterly, at the call of the Chairperson.

(6) QUORUM.—A majority of the members of the Committee shall constitute a quorum, but a lesser number of members may hold hearings.

(7) CHAIRPERSON.—The President shall select 1 member of the Committee to serve as the Chairperson of the Committee.

(b) DUTIES.—

(1) STUDY.—The Committee shall conduct a thorough study of, and develop recommendations with respect to, all matters relating to—

(A) the establishment of a national computer database for the collection and dissemination of information relating to violations of section 659 of title 18, United States Code (as added by this Act); and

(B) the establishment of an office within the Federal Government to promote cargo security and to increase coordination between the Federal Government and the private sector with respect to cargo security.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Com-

mittee shall submit to the President and to Congress a report, which shall contain a detailed statement of results of the study and the recommendations of the Committee under paragraph (1).

(c) POWERS.—

(1) HEARINGS.—The Committee may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Committee considers advisable to carry out the purposes of this section.

(2) INFORMATION FROM FEDERAL AGENCIES.—The Committee may secure directly from any Federal department or agency such information as the Committee considers necessary to carry out the provisions of this section. Upon request of the Chairperson of the Committee, the head of such department or agency shall furnish such information to the Committee.

(3) POSTAL SERVICES.—The Committee may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(4) GIFTS.—The Committee may accept, use, and dispose of gifts or donations of services or property.

(d) PERSONNEL MATTERS.—

(1) COMPENSATION OF MEMBERS.—

(A) NON-FEDERAL MEMBERS.—Each member of the Committee who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Committee.

(B) FEDERAL MEMBERS.—Each member of the Committee who is an officer or employee of the United States shall serve without compensation in addition to that received for their service as an officer or employee of the United States.

(2) TRAVEL EXPENSES.—The members of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Committee.

(3) STAFF.—

(A) IN GENERAL.—The Chairperson of the Committee may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Committee to perform its duties. The employment of an executive director shall be subject to confirmation by the Committee.

(B) COMPENSATION.—The Chairperson of the Committee may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(4) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Committee without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(5) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the

Committee may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(e) **TERMINATION.**—The Committee shall terminate 90 days after the date on which the Committee submits the report under subsection (b)(2).

(f) **AUTHORIZATION OF APPROPRIATIONS.**—

(1) **IN GENERAL.**—There are authorized to be appropriated such sums as may be necessary to the Committee to carry out the purposes of this section.

(2) **AVAILABILITY.**—Any sums appropriated under the authorization contained in this section shall remain available, without fiscal year limitation, until expended.

#### ADDITIONAL COSPONSORS

S. 10

At the request of Mr. SMITH, his name was withdrawn as a cosponsor of S. 10, a bill to reduce violent juvenile crime, promote accountability by juvenile criminals, punish and deter violent gang crime, and for other purposes.

S. 173

At the request of Mr. DEWINE, the name of the Senator from Nebraska [Mr. HAGEL] was added as a cosponsor of S. 173, a bill to expedite State reviews of criminal records of applicants for private security officer employment, and for other purposes.

S. 632

At the request of Mr. KOHL, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 632, a bill to amend the Internal Revenue Code of 1986 with respect to the eligibility of veterans for mortgage revenue bond financing, and for other purposes.

S. 1115

At the request of Mr. JEFFORDS, his name was added as a cosponsor of S. 1115, a bill to amend title 49, United States Code, to improve one-call notification process, and for other purposes.

S. 1225

At the request of Mr. HUTCHINSON, the names of the Senator from Oklahoma [Mr. INHOFE] and the Senator from Idaho [Mr. CRAIG] were added as cosponsors of S. 1225, a bill to terminate the Internal Revenue Code of 1986.

S. 1299

At the request of Mr. HUTCHINSON, the name of the Senator from Kansas [Mr. BROWNBACK] was added as a cosponsor of S. 1299, a bill to limit the authority of the Administrator of the Environmental Protection Agency and the Food and Drug Administration to ban metered-dose inhalers.

S. 1310

At the request of Mr. FORD, the name of the Senator from Tennessee [Mr. FRIST] was added as a cosponsor of S. 1310, a bill to provide market transition assistance for tobacco producers, tobacco industry workers, and their communities.

S. 1320

At the request of Mr. ROCKEFELLER, the names of the Senator from Connecticut [Mr. DODD] and the Senator from North Dakota [Mr. DORGAN] were added as cosponsors of S. 1320, a bill to provide a scientific basis for the Secretary of Veterans Affairs to assess the nature of the association between illnesses and exposure to toxic agents and environmental or other wartime hazards as a result of service in the Persian Gulf during the Persian Gulf War for purposes of determining a service connection relating to such illnesses, and for other purposes.

S. 1321

At the request of Mr. TORRICELLI, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 1321, a bill to amend the Federal Water Pollution Control Act to permit grants for the national estuary program to be used for the development and implementation of a comprehensive conservation and management plan, to reauthorize appropriations to carry out the program, and for other purposes.

S. 1350

At the request of Mr. FEINGOLD, his name was added as a cosponsor of S. 1350, a bill to amend section 332 of the Communications Act of 1934 to preserve State and local authority to regulate the placement, construction, and modification of certain telecommunications facilities, and for other purposes.

S. 1360

At the request of Mr. ABRAHAM, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 1360, a bill to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to clarify and improve the requirements for the development of an automated entry-exit control system, to enhance land border control and enforcement, and for other purposes.

S. 1379

At the request of Mr. DEWINE, the names of the Senator from New Jersey [Mr. TORRICELLI] and the Senator from Nebraska [Mr. KERREY] were added as cosponsors of S. 1379, a bill to amend section 552 of title 5, United States Code, and the National Security Act of 1947 to require disclosure under the Freedom of Information act regarding certain persons, disclose Nazi war criminal records without impairing any investigation or prosecution conducted by the Department of Justice or certain intelligence matters, and for other purposes.

#### SENATE CONCURRENT RESOLUTION 52

At the request of Mr. HOLLINGS, the name of the Senator from Wisconsin [Mr. KOHL] was added as a cosponsor of Senate Concurrent Resolution 52, a concurrent resolution relating to maintaining the current standard behind

the "Made in USA" label, in order to protect consumers and jobs in the United States.

#### SENATE CONCURRENT RESOLUTION 67—DESIGNATING THE MILLENNIUM PROJECT

Mrs. HUTCHISON (for herself, Mrs. MURRAY, Ms. SNOWE, Mrs. FEINSTEIN, Mrs. BOXER, Ms. MIKULSKI, Ms. MOSELEY-BRAUN, and Ms. COLLINS) submitted the following concurrent resolution; which was considered and agreed to.

S. CON. RES. 67

Whereas knowledge of our heritage is critical to understanding and meeting the challenges of today and developing a vision for our future;

Whereas the recognition of historic contributions of women to civilization is woefully lacking and such contributions are misunderstood in our Nation's cultural and historical landscape;

Whereas the Foundation for Women's Resources has announced the creation of The Women's Museum: An Institute for the Future (in this resolution referred to as the "Museum"), a state-of-the-art, interactive museum that will—

- (1) profile the specific achievements of individual women throughout history;
- (2) explore the experiences of women in our civilization; and
- (3) celebrate the role of women in culture, commerce, politics, art, music, and the sciences;

Whereas the Museum will both honor the past contributions of women in history as well as the future role of women in our society;

Whereas the Museum will be housed in the restored State Fair Coliseum in Dallas, Texas, and designed by architect Wendy Evans Joseph, senior designer for the United States Holocaust Memorial Museum;

Whereas the Museum has been widely supported by numerous women's organizations, local governments, corporations, and individuals;

Whereas the Museum is scheduled to open in the year 2000, the first time as a Nation we have witnessed the turn of a millennium; and

Whereas the turn of the millennium will be commemorated by government institutions and agencies with special projects and events all over our country: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress—*

(1) that the past, present, and future contributions of women to culture, commerce, politics, art, music, and the sciences should be recognized and celebrated;

(2) that The Women's Museum: An Institute for the Future, in Dallas, Texas, should be designated as a millennium project for the United States; and

(3) that Federal agencies and other Federal institutions should support the establishment and operation of The Women's Museum: An Institute for the Future by—

- (A) providing construction and operational support;
- (B) supporting a ground-breaking ceremony for the museum; and
- (C) supporting the museum and its objectives in all other respects.

SENATE RESOLUTION 150—  
RELATIVE TO A \$1 COIN

Ms. SNOWE submitted the following resolution; which was referred to the Committee on Banking, Housing, and Urban Affairs:

S. RES. 150

Whereas in 1940, Margaret Chase Smith became a Member of the House of Representatives, commencing 32 years of public service to the State of Maine and to the United States;

Whereas Margaret Chase Smith was elected to the Senate in 1948, becoming the first woman to be elected to the Senate, as well as the first woman to be elected to both the House of Representatives and the Senate;

Whereas on June 1, 1950, Margaret Chase Smith delivered an address entitled "Declaration of Conscience", which was a defense of the basic principles of Americanism, including the right to criticize, the right to hold unpopular beliefs, the right to protest, and the right to independent thought;

Whereas Margaret Chase Smith was the first woman to become the ranking member of a congressional committee;

Whereas Margaret Chase Smith was the first woman to serve on the Committee on Armed Services and the Committee on Appropriations of the Senate;

Whereas in 1964, Margaret Chase Smith was the first woman to have her name placed in nomination for the presidency by either major political party;

Whereas Margaret Chase Smith was the first civilian woman to sail on a United States destroyer during wartime;

Whereas Margaret Chase Smith was the first woman to break the sound barrier in a United States Air Force F-100 Super Sabre;

Whereas until 1981, Margaret Chase Smith held the all-time consecutive rollcall voting record of the Senate, totalling 2,941 votes over 13 years;

Whereas Margaret Chase Smith died at the age of 97, and, during her lifetime, was given 95 honorary degrees and was awarded the Presidential Medal of Freedom by President Bush in 1989;

Whereas Margaret Chase Smith was a teacher, a telephone operator, a newspaper-woman, an office manager, a secretary, a wife, a Congresswoman, and a Senator;

Whereas Margaret Chase Smith was a leader, a Nation's conscience, a visionary, and a woman of endless firsts;

Whereas the achievements of Margaret Chase Smith are an inspiration to millions of young girls and women, showing that through the use of one's talents, abilities, and energies that opportunities for women do exist and that the door to elected office can be open to all women; and

Whereas Margaret Chase Smith served with pride and humility, and her epitaph aptly reads, "She served people.": Now, therefore, be it

*Resolved*, That it is the sense of the Senate that if a new \$1 coin is minted, the Secretary of the Treasury should be authorized to mint and circulate \$1 coins bearing a likeness of Margaret Chase Smith.

SENATE RESOLUTION 151—AMEND-  
ING THE STANDING RULES OF  
THE SENATE

Mr. WARNER (for himself and Mr. FORD) submitted the following resolution; which was considered and agreed to.

S. RES. 151

*Resolved*,

SECTION 1. AMENDMENT TO THE STANDING  
RULES OF THE SENATE.

Paragraph 1(n)(2) of rule XXV of the Standing Rules of the Senate is amended—

(1) in division (A), by striking "and" at the end;

(2) in division (B), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(C) develop, implement, and update as necessary a strategic planning process and a strategic plan for the functional and technical infrastructure support of the Senate and provide oversight over plans developed by Senate officers and others in accordance with the strategic planning process."

SEC. 2. COOPERATION BY OFFICES OF THE SEN-  
ATE.

(a) SECRETARY OF THE SENATE.—The Secretary of the Senate shall assist the efforts of the Committee on Rules and Administration with respect to the development and implementation of a strategic plan for the functional and technical infrastructure support of the Senate. The Secretary shall prepare for approval by the Committee implementation plans, including proposed budgets, for the areas of infrastructure support for which the Secretary is responsible.

(b) SERGEANT AT ARMS.—The Sergeant at Arms shall assist the efforts of the Committee on Rules and Administration with respect to the development and implementation of a strategic plan for the functional and technical infrastructure support of the Senate. The Sergeant at Arms shall prepare for approval by the Committee implementation plans, including proposed budgets, for the areas of infrastructure support for which the Sergeant at Arms is responsible.

SENATE RESOLUTION 152—CON-  
CERNING THE SENATE LEGAL  
COUNSEL

Mr. LOTT (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to.

S. RES. 152

Whereas, in the cases of *City of New York, et al. v. William Clinton, et al.*, Civ. No. 97-2393, *National Treasury Employees Union, et al. v. United States, et al.*, Civ. No. 97-2399, and *Snake River Potato Growers, Inc., et al. v. Robert Rubin*, Civ. No. 97-2463, all pending in the United States District Court for the District of Columbia, the constitutionality of the Line Veto Act, Pub. L. No. 104-130, 110 Stat. 1200 (1996), has been placed in issue;

Whereas, pursuant to sections 703(c), 706(a), and 713(a) of the Ethics in Government Act of 1978, 2 U.S.C. 288b(c), 288e(a), and 288l(a), the Senate may direct its counsel to appear as amicus curiae in the name of the Senate in any legal action in which the powers and responsibilities of Congress under the Constitution are placed in issue: Now, therefore, be it

*Resolved*, That the Senate Legal Counsel is directed to appear as amicus curiae on behalf of the Senate in the cases of *City of New York, et al. v. William Clinton, et al.*; *National Treasury Employees Union, et al. v. United States, et al.*; and *Snake River Potato Growers, Inc., et al. v. Robert Rubin*, to defend the constitutionality of the Line Item Veto Act.

SEC. 2. That while the Senate is adjourned the Senate Legal Counsel is authorized to appear as amicus curiae on behalf of the Sen-

ate in other cases in which the constitutionality of the Line Item Veto Act is placed in issue: *Provided*, That the Joint Leadership Group authorizes the Senate Legal Counsel to appear as amicus curiae on behalf of the Senate in such other cases.

SENATE RESOLUTION 153—CON-  
CERNING THE SENATE LEGAL  
COUNSEL

Mr. LOTT (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to.

S. RES. 153

Whereas, in the case of *Sherry Yvonne Moore v. Capitol Guide Board*, Case No. 1:97CV00823, pending in the United States District Court for the District of Columbia, a subpoena has been issued for the production of documents of the Sergeant-at-Arms and Doorkeeper of the Senate;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. 288b(a) and 288c(a)(2), the Senate may direct its counsel to represent Members, officers, and employees of the Senate with respect to any subpoena, order, or request for testimony or document production relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate: Now, therefore, be it

*Resolved*, That the Sergeant-at-Arms and Doorkeeper of the Senate is authorized to produce documents relevant to the case of *Sherry Yvonne Moore v. Capitol Guide Board*, except where a privilege should be asserted.

SEC. 2. That the Senate Legal Counsel is authorized to represent the Sergeant-at-Arms and Doorkeeper of the Senate in connection with the production of documents in this case.

SENATE RESOLUTION 154—CON-  
CERNING THE SENATE LEGAL  
COUNSEL

Mr. LOTT (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to.

S. RES. 154

Whereas, in the case of *Magee, et al. v. Hatch, et al.*, No. 97-CV02203, pending in the United States District Court for the District of Columbia, the plaintiffs have named Senator Orrin Hatch as a defendant;

Whereas, pursuant to sections 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(1) (1994), the Senate may direct its counsel to defend its Members in civil actions relating to their official responsibilities: Now, therefore, be it

*Resolved*, That the Senate Legal Counsel is authorized to represent Senator Hatch in the case of *Magee, et al. v. Hatch, et al.*

## AMENDMENTS SUBMITTED

THE ADAK ISLAND NAVAL BASE  
REUSE FACILITATION ACT OF 1997

## MURKOWSKI AMENDMENT NO. 1618

(Ordered referred to the Committee on Energy and Natural Resources.)

Mr. MURKOWSKI submitted an amendment intended to be proposed by him to the bill (S. 1488) to ratify an agreement between the Aleut Corporation and the United States of America to exchange land rights received under the Alaska Native Claims Settlement Act for certain land interests on Adak Island, and for other purposes; as follows:

At the end of the bill insert the following new section:

"SEC. 5. GENERAL.—Notwithstanding any other provision of law, and for the purposes of the transfer of property authorized by this Act, personal property that remains on Adak Island is deemed related to the real property and shall be conveyed with real property. Any property, including, but not limited to, appurtenances and improvements, received pursuant to this Act shall, for purposes of Section 21(d) of the Alaska Native Claims Settlement Act, as amended, and Section 907(d) of the Alaska National Interest Lands and Conservation Act, as amended, be treated as not developed until such property is actually occupied, leased, or sold by TAC."

Mr. MURKOWSKI. Mr. President, I rise today to offer an amendment to legislation pending before the Energy and Natural Resources Committee which will facilitate and promote the successful commercial reuse of the Naval Air Facility being closed on Adak Island, Alaska. The underlying legislation will ratify an agreement between the Aleut Corporation in Alaska, the Department of the Interior and the Department of the Navy concerning the reuse of lands occupied by the Navy.

When the Navy's lease expires in October of next year the lands and facilities are to be relinquished back to the Department of the Interior for inclusion into the Alaska Maritime National Wildlife Refuge. The legislation introduced yesterday will facilitate the transfer of that land to Aleut Corporation in exchange for other ANCSA land selections made by the Aleuts. The amendment I offer today will ensure that the private property on Adak Island is transferred to the Aleuts as well as the land and interests in that land. Without this amendment, Mr. President, the facilities constructed on Adak Island by the Navy cannot be placed into productive civilian use. If we are to help the Aleut Corporation establish a community on Adak the ability to use these facilities is critical.

I look forward to moving the underlying legislation and this amendment through the Energy and Natural Resources Committee early next year.

THE RECIPROCAL TRADE  
AGREEMENT ACT OF 1997FEINSTEIN AMENDMENTS NOS.  
1619-1620

(Ordered to lie on the table.)

Mrs. FEINSTEIN submitted two amendments intended to be proposed by her to the bill (S. 1269) to establish objectives for negotiating and procedures for implementing certain trade agreements; as follows:

## AMENDMENT NO. 1619

On page 26, beginning on line 7, strike all through line 13, and insert the following:

"(B) if changes in existing laws or new statutory authority is required to implement such trade agreement or agreements, provisions, necessary or appropriate to implement such trade agreement or agreements, either repealing or amending existing laws or providing new statutory authority; and"

## AMENDMENT NO. 1620

On page 8, beginning on line 6, strike all through page 10, line 2, and insert the following:

(5) RECIPROCAL TRADE IN AGRICULTURE.—The principal trade negotiating objective of the United States with respect to agriculture is to obtain competitive opportunities for United States exports in foreign markets substantially equivalent to the competitive opportunities afforded foreign exports in United States markets and to achieve fairer and more open conditions of trade in bulk and value-added commodities by—

(A) reducing or eliminating, by a date certain, tariffs or other charges that decrease market opportunities for United States exports—

(i) giving priority to those products that are subject to significantly higher tariffs or subsidy regimes of major producing countries; and

(ii) providing reasonable adjustment periods for United States import-sensitive products, in close consultation with the Congress on such products before initiating tariff reduction negotiations;

(B) reducing or eliminating subsidies that decrease market opportunities for United States exports or unfairly distort agriculture markets to the detriment of the United States;

(C) developing, strengthening, and clarifying rules and effective dispute settlement mechanisms to eliminate practices that unfairly decrease United States market access opportunities or distort agricultural markets to the detriment of the United States, particularly with respect to import-sensitive products, including—

(i) unfair or trade-distorting activities of state trading enterprises and other administrative mechanisms, with emphasis on requiring price transparency in the operation of state trading enterprises and such other mechanisms;

(ii) unjustified trade restrictions or commercial requirements affecting new technologies, including biotechnology;

(iii) unjustified sanitary or phytosanitary restrictions, including those not based on scientific principles in contravention of the Uruguay Round Agreements;

(iv) other unjustified technical barriers to trade; and

(v) restrictive rules in the administration of tariff rate quotas;

(D) improving import relief mechanisms to recognize the unique characteristics of perishable agriculture;

(E) taking into account whether a party to the negotiations has failed to adhere to the provisions of already existing trade agreements with the United States or has circumvented obligations under those agreements;

(F) taking into account whether a product is subject to market distortions by reason of a failure of a major producing country to adhere to the provisions of already existing trade agreements with the United States or by the circumvention by that country of its obligations under those agreements; and

(G) otherwise ensuring that countries that accede to the World Trade Organization have made meaningful market liberalization commitments in agriculture.

On page 34, between lines 5 and 6, insert the following:

(e) NEGOTIATIONS REGARDING AGRICULTURE.—Before initiating negotiations the subject matter of which is directly related to the subject matter under section 2(b)(5)(A) with any country, the President shall assess whether United States tariffs on agriculture products that were bound under the Uruguay Round Agreements are lower than the tariffs bound by that country. In addition, the President shall consider whether the tariff levels bound and applied throughout the world with respect to imports from the United States are higher than United States tariffs and whether the negotiation provides an opportunity to address any such disparity. The President shall consult with the Committee on Ways and Means and the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate concerning the results of the assessment, whether it is appropriate for the United States to agree to further tariff reductions based on the conclusions reached in the assessment, and how all applicable negotiating objectives will be met.

THE DISTRICT OF COLUMBIA  
APPROPRIATIONS ACT, 1998STEVENS (AND BYRD)  
AMENDMENT NO. 1621

Mr. STEVENS (for himself and Mr. BYRD) proposed an amendment to the bill (H.R. 2607) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1998, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

Strike out all after the enacting clause and insert:

*That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the several departments, agencies, corporations and other organizational units of the Government for the fiscal year 1998, and for other purposes, namely:*

DIVISION A—DISTRICT OF COLUMBIA  
APPROPRIATIONS ACT, 1998

*The following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the District of Columbia for the fiscal year ending September 30, 1998, and for other purposes, to be effective as if it had been enacted into law as the regular appropriations Act, namely:*

TITLE I—FISCAL YEAR 1998  
APPROPRIATIONS  
FEDERAL FUNDS

FEDERAL PAYMENT FOR MANAGEMENT REFORM

For payment to the District of Columbia, as authorized by section 11103(c) of the National Capital Revitalization and Self-Government Improvement Act of 1997, Public Law 105-33, \$8,000,000, to remain available until September 30, 1999, which shall be deposited into an escrow account of the District of Columbia Financial Responsibility and Management Assistance Authority and shall be disbursed from such escrow account pursuant to the instructions of the Authority only for a program of management reform pursuant to sections 11101-11106 of the District of Columbia Management Reform Act of 1997, Public Law 105-33.

FEDERAL CONTRIBUTION TO THE OPERATIONS OF  
THE NATION'S CAPITAL

For a Federal contribution to the District of Columbia toward the costs of the operation of the government of the District of Columbia, \$190,000,000, which shall be deposited into an escrow account held by the District of Columbia Financial Responsibility and Management Assistance Authority, which shall allocate the funds to the Mayor at such intervals and in accordance with such terms and conditions as it considers appropriate to implement the financial plan for the year: Provided, That these funds may be used by the District of Columbia for the costs of advances to the District government as authorized by section 11402 of the National Capital Revitalization and Self-Government Improvement Act of 1997, Public Law 105-33: Provided further, That not less than \$30,000,000 shall be used by the District of Columbia to repay the accumulated general fund deficit.

FEDERAL PAYMENT TO THE DISTRICT OF  
COLUMBIA CORRECTIONS TRUSTEE OPERATIONS

For payment to the District of Columbia Corrections Trustee, \$169,000,000 for the administration and operation of correctional facilities and for the administrative operating costs of the Office of the Corrections Trustee, as authorized by section 11202 of the National Capital Revitalization and Self-Government Improvement Act of 1997, Public Law 105-33.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA CORRECTIONS TRUSTEE FOR CORRECTIONAL FACILITIES, CONSTRUCTION AND REPAIR

For payment to the District of Columbia Corrections Trustee for Correctional Facilities, \$302,000,000, to remain available until expended, of which not less than \$294,900,000 is available for transfer to the Federal Prison System, as authorized by section 11202 of the National Capital Revitalization and Self-Government Improvement Act of 1997, Public Law 105-33.

FEDERAL PAYMENT TO THE DISTRICT OF  
COLUMBIA

CRIMINAL JUSTICE SYSTEM

(INCLUDING TRANSFER OF FUNDS)

Notwithstanding any other provision of law, \$108,000,000 for payment to the Joint Committee on Judicial Administration in the District of Columbia for operation of the District of Columbia Courts, including pension costs: Provided, That said sums shall be paid quarterly by the Treasury of the United States based on quarterly apportionments approved by the Office of Management and Budget, with payroll and financial services to be provided on a contractual basis with the General Services Administration, said services to include the preparation and submission of monthly financial reports to the President and to the Committees on Appropriations of the Senate and House of Representatives, the Committee on Governmental Affairs of the Senate, and the Committee on Government Reform

and Oversight of the House of Representatives; of which not to exceed \$750,000 shall be available for establishment and operations of the District of Columbia Truth in Sentencing Commission as authorized by section 11211 of the National Capital Revitalization and Self-Government Improvement Act of 1997, Public Law 105-33.

Notwithstanding any other provision of law, for an additional amount, \$43,000,000, for payment to the Offender Supervision Trustee to be available only for obligation by the Offender Supervision Trustee; of which \$26,855,000 shall be available for Parole, Adult Probation and Offender Supervision; of which \$9,000,000 shall be available to the Public Defender Service; of which \$6,345,000 shall be available to the Pretrial Services Agency; and of which not to exceed \$800,000 shall be transferred to the United States Parole Commission to implement section 11231 of the National Capital Revitalization and Self-Government Improvement Act of 1997.

DISTRICT OF COLUMBIA FUNDS

OPERATING EXPENSES

DIVISION OF EXPENSES

The following amounts are appropriated for the District of Columbia for the current fiscal year out of the general fund of the District of Columbia, except as otherwise specifically provided.

GOVERNMENTAL DIRECTION AND SUPPORT

Governmental direction and support, \$105,177,000 (including \$84,316,000 from local funds, \$14,013,000 from Federal funds, and \$6,848,000 from other funds): Provided, That not to exceed \$2,500 for the Mayor, \$2,500 for the Chairman of the Council of the District of Columbia, and \$2,500 for the City Administrator shall be available from this appropriation for official purposes: Provided further, That any program fees collected from the issuance of debt shall be available for the payment of expenses of the debt management program of the District of Columbia: Provided further, That no revenues from Federal sources shall be used to support the operations or activities of the Statehood Commission and Statehood Compact Commission: Provided further, That the District of Columbia shall identify the sources of funding for Admission to Statehood from its own locally-generated revenues: Provided further, That \$240,000 shall be available for citywide special elections: Provided further, That all employees permanently assigned to work in the Office of the Mayor shall be paid from funds allocated to the Office of the Mayor.

ECONOMIC DEVELOPMENT AND REGULATION

Economic development and regulation, \$120,072,000 (including \$40,377,000 from local funds, \$42,065,000 from Federal funds, and \$37,630,000 from other funds), together with \$12,000,000 collected in the form of BID tax revenue collected by the District of Columbia on behalf of business improvement districts pursuant to the Business Improvement Districts Act of 1996, effective May 29, 1996 (D.C. Law 11-134; D.C. Code, sec. 1-2271 et seq.), and the Business Improvement Districts Temporary Amendment Act of 1997 (Bill 12-230).

PUBLIC SAFETY AND JUSTICE

Public safety and justice, including purchase or lease of 135 passenger-carrying vehicles for replacement only, including 130 for police-type use and five for fire-type use, without regard to the general purchase price limitation for the current fiscal year, \$529,739,000 (including \$510,326,000 from local funds, \$13,519,000 from Federal funds, and \$5,894,000 from other funds): Provided, That the Metropolitan Police Department is authorized to replace not to exceed 25 passenger-carrying vehicles and the Department of Fire and Emergency Medical Services of the

District of Columbia is authorized to replace not to exceed five passenger-carrying vehicles annually whenever the cost of repair to any damaged vehicle exceeds three-fourths of the cost of the replacement: Provided further, That not to exceed \$500,000 shall be available from this appropriation for the Chief of Police for the prevention and detection of crime: Provided further, That the Metropolitan Police Department shall provide quarterly reports to the Committees on Appropriations of the House and Senate on efforts to increase efficiency and improve the professionalism in the department: Provided further, That notwithstanding any other provision of law, or Mayor's Order 86-45, issued March 18, 1986, the Metropolitan Police Department's delegated small purchase authority shall be \$500,000: Provided further, That the District of Columbia government may not require the Metropolitan Police Department to submit to any other procurement review process, or to obtain the approval of or be restricted in any manner by any official or employee of the District of Columbia government, for purchases that do not exceed \$500,000: Provided further, That the Mayor shall reimburse the District of Columbia National Guard for expenses incurred in connection with services that are performed in emergencies by the National Guard in a militia status and are requested by the Mayor, in amounts that shall be jointly determined and certified as due and payable for these services by the Mayor and the Commanding General of the District of Columbia National Guard: Provided further, That such sums as may be necessary for reimbursement to the District of Columbia National Guard under the preceding provision shall be available from this appropriation, and the availability of the sums shall be deemed as constituting payment in advance for emergency services involved: Provided further, That the Metropolitan Police Department is authorized to maintain 3,800 sworn officers, with leave for a 50 officer attrition: Provided further, That no more than 15 members of the Metropolitan Police Department shall be detailed or assigned to the Executive Protection Unit, until the Chief of Police submits a recommendation to the Council for its review: Provided further, That \$100,000 shall be available for inmates released on medical and geriatric parole: Provided further, That not less than \$2,254,754 shall be available to support a pay raise for uniformed firefighters, when authorized by the District of Columbia Council and the District of Columbia Financial Responsibility and Management Assistance Authority, which funding will be made available as savings achieved through actions within the appropriated budget: Provided further, That, commencing on December 31, 1997, the Metropolitan Police Department shall provide to the Committees on Appropriations of the Senate and House of Representatives, the Committee on Governmental Affairs of the Senate, and the Committee on Government Reform and Oversight of the House of Representatives, quarterly reports on the status of crime reduction in each of the 83 police service areas established throughout the District of Columbia: Provided further, That funds appropriated for expenses under the District of Columbia Criminal Justice Act, approved September 3, 1974 (88 Stat. 1090; Public Law 93-412; D.C. Code, sec. 11-2601 et seq.), for the fiscal year ending September 30, 1998, shall be available for obligations incurred under the Act in each fiscal year since inception in fiscal year 1975: Provided further, That funds appropriated for expenses under the District of Columbia Neglect Representation Equity Act of 1984, effective March 13, 1985 (D.C. Law 5-129; D.C. Code, sec. 16-2304), for the fiscal year ending September 30, 1998, shall be available for obligations incurred under the Act in each fiscal year since inception in fiscal year 1985: Provided

further. That funds appropriated for expenses under the District of Columbia Guardianship, Protective Proceedings, and Durable Power of Attorney Act of 1986, effective February 27, 1987 (D.C. Law 6-204; D.C. Code, sec. 21-2060), for the fiscal year ending September 30, 1998, shall be available for obligations incurred under the Act in each fiscal year since inception in fiscal year 1989.

#### PUBLIC EDUCATION SYSTEM

Public education system, including the development of national defense education programs, \$672,444,000 (including \$530,197,000 from local funds, \$112,806,000 from Federal funds, and \$29,441,000 from other funds), to be allocated as follows: \$564,129,000 (including \$460,143,000 from local funds, \$98,491,000 from Federal funds, and \$5,495,000 from other funds), for the public schools of the District of Columbia; \$8,900,000 from local funds for the District of Columbia Teachers' Retirement Fund; \$3,376,000 from local funds (not including funds already made available for District of Columbia public schools) for public charter schools: Provided, That if the entirety of this allocation has not been provided as payments to any public charter schools currently in operation through the per pupil funding formula, the funds shall be available for new public charter schools on a per pupil basis: Provided further, That \$400,000 be available to the District of Columbia Public Charter School Board for administrative costs: Provided further, That if the entirety of this allocation has not been provided as payment to one or more public charter schools by May 1, 1998, and remains unallocated, the funds shall be deposited into a special revolving loan fund to be used solely to assist existing or new public charter schools in meeting startup and operating costs: Provided further, That the Emergency Transitional Education Board of Trustees of the District of Columbia shall report to Congress not later than 120 days after the date of enactment of this Act on the capital needs of each public charter school and whether the current per pupil funding formula should reflect these needs: Provided further, That until the Emergency Transitional Education Board of Trustees reports to Congress as provided in the preceding proviso, the Emergency Transitional Education Board of Trustees shall take appropriate steps to provide public charter schools with assistance to meet all capital expenses in a manner that is equitable with respect to assistance provided to other District of Columbia public schools: Provided further, That the Emergency Transitional Education Board of Trustees shall report to Congress not later than November 1, 1998, on the implementation of their policy to give preference to newly created District of Columbia public charter schools for surplus public school property; \$74,087,000 (including \$37,791,000 from local funds, \$12,804,000 from Federal funds, and \$23,492,000 from other funds) for the University of the District of Columbia; \$22,036,000 (including \$20,424,000 from local funds, \$1,158,000 from Federal funds, and \$454,000 from other funds) for the Public Library; \$2,057,000 (including \$1,704,000 from local funds and \$353,000 from Federal funds) for the Commission on the Arts and Humanities: Provided further, That the public schools of the District of Columbia are authorized to accept not to exceed 31 motor vehicles for exclusive use in the driver education program: Provided further, That not to exceed \$2,500 for the Superintendent of Schools, \$2,500 for the President of the University of the District of Columbia, and \$2,000 for the Public Librarian shall be available from this appropriation for official purposes: Provided further, That not less than \$1,200,000 shall be available for local school allotments in a restricted line item: Provided further, That not less than \$4,500,000 shall be available to support kinder-

garten aides in a restricted line item: Provided further, That not less than \$2,800,000 shall be available to support substitute teachers in a restricted line item: Provided further, That not less than \$1,788,000 shall be available in a restricted line item for school counselors: Provided further, That this appropriation shall not be available to subsidize the education of non-residents of the District of Columbia at the University of the District of Columbia, unless the Board of Trustees of the University of the District of Columbia adopts, for the fiscal year ending September 30, 1998, a tuition rate schedule that will establish the tuition rate for non-resident students at a level no lower than the nonresident tuition rate charged at comparable public institutions of higher education in the metropolitan area.

#### HUMAN SUPPORT SERVICES

Human support services, \$1,718,939,000 (including \$789,350,000 from local funds, \$886,702,000 from Federal funds, and \$42,887,000 from other funds): Provided, That \$21,089,000 of this appropriation, to remain available until expended, shall be available solely for District of Columbia employees' disability compensation: Provided further, That a peer review committee shall be established to review medical payments and the type of service received by a disability compensation claimant: Provided further, That the District of Columbia shall not provide free government services such as water, sewer, solid waste disposal or collection, utilities, maintenance, repairs, or similar services to any legally constituted private nonprofit organization (as defined in section 411(5) of Public Law 100-77, approved July 22, 1987) providing emergency shelter services in the District, if the District would not be qualified to receive reimbursement pursuant to the Stewart B. McKinney Homeless Assistance Act, approved July 22, 1987 (101 Stat. 485; Public Law 100-77; 42 U.S.C. 11301 et seq.).

#### PUBLIC WORKS

Public works, including rental of one passenger-carrying vehicle for use by the Mayor and three passenger-carrying vehicles for use by the Council of the District of Columbia and leasing of passenger-carrying vehicles, \$241,934,000 (including \$227,983,000 from local funds, \$3,350,000 from Federal funds, and \$10,601,000 from other funds): Provided, That this appropriation shall not be available for collecting ashes or miscellaneous refuse from hotels and places of business: Provided further, That \$3,000,000 shall be available for the lease financing, operation, and maintenance of two mechanical street sweepers, one flusher truck, five packer trucks, one front-end loader, and various public litter containers: Provided further, That \$2,400,000 shall be available for recycling activities.

#### FINANCING AND OTHER USES

Financing and other uses, \$454,773,000 (including for payment to the Washington Convention Center, \$5,400,000 from local funds; reimbursement to the United States of funds loaned in compliance with an Act to provide for the establishment of a modern, adequate, and efficient hospital center in the District of Columbia, approved August 7, 1946 (60 Stat. 896; Public Law 79-648); section 1 of an Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; Public Law 85-451; D.C. Code, sec. 9-219); section 4 of an Act to authorize the Commissioners of the District of Columbia to plan, construct, operate, and maintain a sanitary sewer to connect the Dulles International Airport with the District of Columbia system, approved June 12, 1960 (74 Stat.

211; Public Law 86-515); and sections 723 and 743(f) of the District of Columbia Home Rule Act of 1973, approved December 24, 1973, as amended (87 Stat. 821; Public Law 93-198; D.C. Code, sec. 47-321, note; 91 Stat. 1156; Public Law 95-131; D.C. Code, sec. 9-219, note), including interest as required thereby, \$384,430,000 from local funds; for the purpose of eliminating the \$331,589,000 general fund accumulated deficit as of September 30, 1990, \$39,020,000 from local funds, as authorized by section 461(a) of the District of Columbia Home Rule Act, approved December 24, 1973, as amended (105 Stat. 540; Public Law 102-106; D.C. Code, sec. 47-321(a)(1); for payment of interest on short-term borrowing, \$12,000,000 from local funds; for lease payments in accordance with the Certificates of Participation involving the land site underlying the building located at One Judiciary Square, \$7,923,000 from local funds; for human resources development, including costs of increased employee training, administrative reforms, and an executive compensation system, \$6,000,000 from local funds; for equipment leases, the Mayor may finance \$13,127,000 of equipment cost, plus cost of issuance not to exceed two percent of the par amount being financed on a lease purchase basis with a maturity not to exceed five years: Provided, That \$75,000 is allocated to the Department of Corrections, \$8,000,000 for the Public Schools, \$50,000 for the Public Library, \$260,000 for the Department of Human Services, \$244,000 for the Department of Recreation and Parks, and \$4,498,000 for the Department of Public Works.

#### ENTERPRISE FUNDS

##### ENTERPRISE AND OTHER USES

Enterprises and other uses, \$15,725,000 (including for the Cable Television Enterprise Fund, established by the Cable Television Communications Act of 1981, effective October 22, 1983 (D.C. Law 5-36; D.C. Code, sec. 43-1801 et seq.), \$2,467,000 (including \$2,135,000 from local funds and \$332,000 from other funds); for the Public Service Commission, \$4,547,000 (including \$4,250,000 from local funds, \$117,000 from Federal funds, and \$180,000 from other funds); for the Office of the People's Counsel, \$2,428,000 from local funds; for the Office of Banking and Financial Institutions, \$600,000 (including \$100,000 from local funds and \$500,000 from other funds); for the Department of Insurance and Securities Regulation, \$5,683,000 from other funds).

##### WATER AND SEWER AUTHORITY AND THE WASHINGTON AQUEDUCT

For the Water and Sewer Authority and the Washington Aqueduct, \$297,310,000 from other funds (including \$263,425,000 for the Water and Sewer Authority and \$33,885,000 for the Washington Aqueduct) of which \$41,423,000 shall be apportioned and payable to the District's debt service fund for repayment of loans and interest incurred for capital improvement projects.

##### LOTTERY AND CHARITABLE GAMES CONTROL BOARD

For the Lottery and Charitable Games Control Board, established by the District of Columbia Appropriation Act for the fiscal year ending September 30, 1982, approved December 4, 1981 (95 Stat. 1174, 1175; Public Law 97-91), as amended, for the purpose of implementing the Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia, effective March 10, 1981 (D.C. Law 3-172; D.C. Code, secs. 2-2501 et seq. and 22-1516 et seq.), \$213,500,000: Provided, That the District of Columbia shall identify the source of funding for this appropriation title from the District's own locally-generated revenues: Provided further, That no revenues from Federal sources shall be used to support the operations or activities of

the Lottery and Charitable Games Control Board.

#### STARPLEX FUND

For the Starplex Fund, \$5,936,000 from other funds for expenses incurred by the Armory Board in the exercise of its powers granted by An Act To Establish A District of Columbia Armory Board, and for other purposes, approved June 4, 1948 (62 Stat. 339; D.C. Code, sec. 2-301 et seq.) and the District of Columbia Stadium Act of 1957, approved September 7, 1957 (71 Stat. 619; Public Law 85-300; D.C. Code, sec. 2-321 et seq.): Provided, That the Mayor shall submit a budget for the Armory Board for the forthcoming fiscal year as required by section 442(b) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 824; Public Law 93-198; D.C. Code, sec. 47-301(b)).

#### D.C. GENERAL HOSPITAL

For the District of Columbia General Hospital, established by Reorganization Order No. 57 of the Board of Commissioners, effective August 15, 1953, \$97,019,000, of which \$44,335,000 shall be derived by transfer from the general fund and \$52,684,000 shall be derived from other funds.

#### D.C. RETIREMENT BOARD

For the D.C. Retirement Board, established by section 121 of the District of Columbia Retirement Reform Act of 1979, approved November 17, 1979 (93 Stat. 866; D.C. Code, sec. 1-711), \$16,762,000 from the earnings of the applicable retirement funds to pay legal, management, investment, and other fees and administrative expenses of the District of Columbia Retirement Board: Provided, That the District of Columbia Retirement Board shall provide to the Congress and to the Council of the District of Columbia a quarterly report of the allocations of charges by fund and of expenditures of all funds: Provided further, That the District of Columbia Retirement Board shall provide the Mayor, for transmittal to the Council of the District of Columbia, an itemized accounting of the planned use of appropriated funds in time for each annual budget submission and the actual use of such funds in time for each annual audited financial report.

#### CORRECTIONAL INDUSTRIES FUND

For the Correctional Industries Fund, established by the District of Columbia Correctional Industries Establishment Act, approved October 3, 1964 (78 Stat. 1000; Public Law 88-622), \$3,332,000 from other funds.

#### WASHINGTON CONVENTION CENTER ENTERPRISE FUND

For the Washington Convention Center Enterprise Fund, \$46,400,000, of which \$5,400,000 shall be derived by transfer from the general fund.

#### DISTRICT OF COLUMBIA FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE AUTHORITY

For the District of Columbia Financial Responsibility and Management Assistance Authority, established by section 101(a) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995 (109 Stat. 97; Public Law 104-8), \$3,220,000.

#### CAPITAL OUTLAY

For construction projects, \$269,330,000 (including \$31,100,000 for the highway trust fund, \$105,485,000 from local funds, and \$132,745,000 in Federal funds), to remain available until expended: Provided, That funds for use of each capital project implementing agency shall be managed and controlled in accordance with all procedures and limitations established under the Financial Management System: Provided further, That all funds provided by this appropriation title shall be available only for the specific projects and purposes intended: Provided fur-

ther, That notwithstanding the foregoing, all authorizations for capital outlay projects, except those projects covered by the first sentence of section 23(a) of the Federal-Aid Highway Act of 1968, approved August 23, 1968 (82 Stat. 827; Public Law 90-495; D.C. Code, sec. 7-134, note), for which funds are provided by this appropriation title, shall expire on September 30, 1999, except authorizations for projects as to which funds have been obligated in whole or in part prior to September 30, 1999: Provided further, That, upon expiration of any such project authorization, the funds provided herein for the project shall lapse.

#### DEFICIT REDUCTION AND REVITALIZATION

For deficit reduction and revitalization, \$201,090,000, to be deposited into an escrow account held by the District of Columbia Financial Responsibility and Management Assistance Authority (hereafter in this section referred to as "Authority"), which shall allocate the funds to the Mayor, or such other District official as the Authority may deem appropriate, at such intervals and in accordance with such terms and conditions as the Authority considers appropriate: Provided, That these funds shall only be used for reduction of the accumulated general fund deficit; capital expenditures, including debt service; and management and productivity improvements, as allocated by the Authority: Provided further, That no funds may be obligated until a plan for their use is approved by the Authority: Provided further, That the Authority shall inform the Committees on Appropriations of the Senate and House of Representatives, the Committee on Governmental Affairs of the Senate, and the Committee on Government Reform and Oversight of the House of Representatives of the approved plans.

#### GENERAL PROVISIONS

SECTION 101. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 102. Except as otherwise provided in this Act, all vouchers covering expenditures of appropriations contained in this Act shall be audited before payment by the designated certifying official and the vouchers as approved shall be paid by checks issued by the designated disbursing official.

SEC. 103. Whenever in this Act an amount is specified within an appropriation for particular purposes or objects of expenditure, such amount, unless otherwise specified, shall be considered as the maximum amount that may be expended for said purpose or object rather than an amount set apart exclusively therefor.

SEC. 104. Appropriations in this Act shall be available, when authorized by the Mayor, for allowances for privately-owned automobiles and motorcycles used for the performance of official duties at rates established by the Mayor: Provided, That such rates shall not exceed the maximum prevailing rates for such vehicles as prescribed in the Federal Property Management Regulations 101-7 (Federal Travel Regulations).

SEC. 105. Appropriations in this Act shall be available for expenses of travel and for the payment of dues of organizations concerned with the work of the District of Columbia government, when authorized by the Mayor: Provided, That the Council of the District of Columbia and the District of Columbia Courts may expend such funds without authorization by the Mayor.

SEC. 106. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making refunds

and for the payment of judgments that have been entered against the District of Columbia government: Provided, That nothing contained in this section shall be construed as modifying or affecting the provisions of section 11(c)(3) of title XII of the District of Columbia Income and Franchise Tax Act of 1947, approved March 31, 1956 (70 Stat. 78; Public Law 84-460; D.C. Code, sec. 47-1812.11(c)(3)).

SEC. 107. Appropriations in this Act shall be available for the payment of public assistance without reference to the requirement of section 544 of the District of Columbia Public Assistance Act of 1982, effective April 6, 1982 (D.C. Law 4-101; D.C. Code, sec. 3-205.44), and for the non-Federal share of funds necessary to qualify for Federal assistance under the Juvenile Delinquency Prevention and Control Act of 1968, approved July 31, 1968 (82 Stat. 462; Public Law 90-445; 42 U.S.C. 3801 et seq.).

SEC. 108. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 109. No funds appropriated in this Act for the District of Columbia government for the operation of educational institutions, the compensation of personnel, or for other educational purposes may be used to permit, encourage, facilitate, or further partisan political activities. Nothing herein is intended to prohibit the availability of school buildings for the use of any community or partisan political group during non-school hours.

SEC. 110. None of the funds appropriated in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name, title, grade, salary, past work experience, and salary history are not available for inspection by the House and Senate Committees on Appropriations, the Subcommittee on the District of Columbia of the House Committee on Government Reform and Oversight, the Subcommittee on Oversight of Government Management, Restructuring and the District of Columbia of the Senate Committee on Governmental Affairs, and the Council of the District of Columbia, or their duly authorized representative.

SEC. 111. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making payments authorized by the District of Columbia Revenue Recovery Act of 1977, effective September 23, 1977 (D.C. Law 2-20; D.C. Code, sec. 47-421 et seq.).

SEC. 112. No part of this appropriation shall be used for publicity or propaganda purposes or implementation of any policy including boycott designed to support or defeat legislation pending before Congress or any State legislature.

SEC. 113. At the start of the fiscal year, the Mayor shall develop an annual plan, by quarter and by project, for capital outlay borrowings: Provided, That within a reasonable time after the close of each quarter, the Mayor shall report to the Council of the District of Columbia and the Congress the actual borrowings and spending progress compared with projections.

SEC. 114. The Mayor shall not borrow any funds for capital projects unless the Mayor has obtained prior approval from the Council of the District of Columbia, by resolution, identifying the projects and amounts to be financed with such borrowings.

SEC. 115. The Mayor shall not expend any moneys borrowed for capital projects for the operating expenses of the District of Columbia government.

SEC. 116. None of the funds appropriated by this Act may be obligated or expended by reprogramming except pursuant to advance approval of the reprogramming granted according to the procedure set forth in the Joint Explanatory Statement of the Committee of Conference

(House Report No. 96-443), which accompanied the District of Columbia Appropriation Act, 1980, approved October 30, 1979 (93 Stat. 713; Public Law 96-93), as modified in House Report No. 98-265, and in accordance with the Reprogramming Policy Act of 1980, effective September 16, 1980 (D.C. Law 3-100; D.C. Code, sec. 47-361 et seq.): Provided, That for the fiscal year ending September 30, 1998 the above shall apply except as modified by Public Law 104-8.

SEC. 117. None of the Federal funds provided in this Act shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of the District of Columbia.

SEC. 118. None of the Federal funds provided in this Act shall be obligated or expended to procure passenger automobiles as defined in the Automobile Fuel Efficiency Act of 1980, approved October 10, 1980 (94 Stat. 1824; Public Law 96-425; 15 U.S.C. 2001(2)), with an Environmental Protection Agency estimated miles per gallon average of less than 22 miles per gallon: Provided, That this section shall not apply to security, emergency rescue, or armored vehicles.

SEC. 119. (a) Notwithstanding section 422(7) of the District of Columbia Home Rule Act of 1973, approved December 24, 1973 (87 Stat. 790; Public Law 93-198; D.C. Code, sec. 1-242(7)), the City Administrator shall be paid, during any fiscal year, a salary at a rate established by the Mayor, not to exceed the rate established for Level IV of the Executive Schedule under 5 U.S.C. 5315.

(b) For purposes of applying any provision of law limiting the availability of funds for payment of salary or pay in any fiscal year, the highest rate of pay established by the Mayor under subsection (a) of this section for any position for any period during the last quarter of calendar year 1997 shall be deemed to be the rate of pay payable for that position for September 30, 1997.

(c) Notwithstanding section 4(a) of the District of Columbia Redevelopment Act of 1945, approved August 2, 1946 (60 Stat. 793; Public Law 79-592; D.C. Code, sec. 5-803(a)), the Board of Directors of the District of Columbia Redevelopment Land Agency shall be paid, during any fiscal year, per diem compensation at a rate established by the Mayor.

SEC. 120. Notwithstanding any other provisions of law, the provisions of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Code, sec. 1-601.1 et seq.), enacted pursuant to section 422(3) of the District of Columbia Home Rule Act of 1973, approved December 24, 1973 (87 Stat. 790; Public Law 93-198; D.C. Code, sec. 1-242(3)), shall apply with respect to the compensation of District of Columbia employees: Provided, That for pay purposes, employees of the District of Columbia government shall not be subject to the provisions of title 5, United States Code.

SEC. 121. The Director of the Department of Administrative Services may pay rentals and repair, alter, and improve rented premises, without regard to the provisions of section 322 of the Economy Act of 1932 (Public Law 72-212; 40 U.S.C. 278a), based upon a determination by the Director that, by reason of circumstances set forth in such determination, the payment of these rents and the execution of this work, without reference to the limitations of section 322, is advantageous to the District in terms of economy, efficiency, and the District's best interest.

SEC. 122. No later than 30 days after the end of the first quarter of the fiscal year ending September 30, 1998, the Mayor of the District of Columbia shall submit to the Council of the District of Columbia the new fiscal year 1998 revenue estimates as of the end of the first quarter of fiscal year 1998. These estimates shall be used

in the budget request for the fiscal year ending September 30, 1999. The officially revised estimates at midyear shall be used for the midyear report.

SEC. 123. No sole source contract with the District of Columbia government or any agency thereof may be renewed or extended without opening that contract to the competitive bidding process as set forth in section 303 of the District of Columbia Procurement Practices Act of 1985, effective February 21, 1986 (D.C. Law 6-85; D.C. Code, sec. 1-1183.3), except that the District of Columbia government or any agency thereof may renew or extend sole source contracts for which competition is not feasible or practical: Provided, That the determination as to whether to invoke the competitive bidding process has been made in accordance with duly promulgated rules and procedures and said determination has been reviewed and approved by the District of Columbia Financial Responsibility and Management Assistance Authority.

SEC. 124. For purposes of the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99-177), as amended, the term "program, project, and activity" shall be synonymous with and refer specifically to each account appropriating Federal funds in this Act, and any sequestration order shall be applied to each of the accounts rather than to the aggregate total of those accounts: Provided, That sequestration orders shall not be applied to any account that is specifically exempted from sequestration by the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99-177), as amended.

SEC. 125. In the event a sequestration order is issued pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99-177), as amended, after the amounts appropriated to the District of Columbia for the fiscal year involved have been paid to the District of Columbia, the Mayor of the District of Columbia shall pay to the Secretary of the Treasury, within 15 days after receipt of a request therefor from the Secretary of the Treasury, such amounts as are sequestered by the order: Provided, That the sequestration percentage specified in the order shall be applied proportionately to each of the Federal appropriation accounts in this Act that are not specifically exempted from sequestration by the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99-177), as amended.

SEC. 126. (a) An entity of the District of Columbia government may accept and use a gift or donation during fiscal year 1998 if—

(1) the Mayor approves the acceptance and use of the gift or donation: Provided, That the Council of the District of Columbia may accept and use gifts without prior approval by the Mayor; and

(2) the entity uses the gift or donation to carry out its authorized functions or duties.

(b) Each entity of the District of Columbia government shall keep accurate and detailed records of the acceptance and use of any gift or donation under subsection (a) of this section, and shall make such records available for audit and public inspection.

(c) For the purposes of this section, the term "entity of the District of Columbia government" includes an independent agency of the District of Columbia.

(d) This section shall not apply to the District of Columbia Board of Education, which may, pursuant to the laws and regulations of the District of Columbia, accept and use gifts to the public schools without prior approval by the Mayor.

SEC. 127. None of the Federal funds provided in this Act may be used by the District of Co-

lumbia to provide for salaries, expenses, or other costs associated with the offices of United States Senator or United States Representative under section 4(d) of the District of Columbia Statehood Constitutional Convention Initiatives of 1979, effective March 10, 1981 (D.C. Law 3-171; D.C. Code, sec. 1-113(d)).

SEC. 128. The University of the District of Columbia shall submit to the Congress, the Mayor, the District of Columbia Financial Responsibility and Management Assistance Authority, and the Council of the District of Columbia no later than fifteen (15) calendar days after the end of each month a report that sets forth—

(1) current month expenditures and obligations, year-to-date expenditures and obligations, and total fiscal year expenditure projections versus budget broken out on the basis of control center, responsibility center, and object class, and for all funds, non-appropriated funds, and capital financing;

(2) a list of each account for which spending is frozen and the amount of funds frozen, broken out by control center, responsibility center, detailed object, and for all funding sources;

(3) a list of all active contracts in excess of \$10,000 annually, which contains the name of each contractor; the budget to which the contract is charged broken out on the basis of control center and responsibility center, and contract identifying codes used by the University of the District of Columbia; payments made in the last month and year-to-date, the total amount of the contract and total payments made for the contract and any modifications, extensions, renewals; and specific modifications made to each contract in the last month;

(4) all reprogramming requests and reports that have been made by the University of the District of Columbia within the last month in compliance with applicable law; and

(5) changes made in the last month to the organizational structure of the University of the District of Columbia, displaying previous and current control centers and responsibility centers, the names of the organizational entities that have been changed, the name of the staff member supervising each entity affected, and the reasons for the structural change.

SEC. 129. Funds authorized or appropriated to the government of the District of Columbia by this or any other act to procure the necessary hardware and installation of new software, conversion, testing, and training to improve or replace its financial management system are also available for the acquisition of accounting and financial management services and the leasing of necessary hardware, software or any other related goods or services, as determined by the District of Columbia Financial Responsibility and Management Assistance Authority.

SEC. 130. Section 456 of the District of Columbia Home Rule Act of 1973, approved December 24, 1973 (87 Stat. 790; Public Law 93-198; D.C. Code, secs. 47-231 et seq.) is amended—

(1) in subsection (a)(1), by—

(A) striking "1995" and inserting "1998";

(B) striking "Mayor" and inserting "District of Columbia Financial Responsibility and Management Assistance Authority"; and

(C) striking "Committee on the District of Columbia" and inserting "Committee on Government Reform and Oversight";

(2) in subsection (b)(1), by—

(A) striking "1997" and inserting "1999";

(B) striking "Mayor" and inserting "Authority"; and

(C) striking "Committee on the District of Columbia" and inserting "Committee on Government Reform and Oversight";

(3) in subsection (b)(3), by striking "Committee on the District of Columbia" and inserting "Committee on Government Reform and Oversight";

(4) in subsection (c)(1), by—

(A) striking "1995" and inserting "1997";

(B) striking "Mayor" and inserting "Chief Financial Officer"; and

(C) striking "Committee on the District of Columbia" and inserting "Committee on Government Reform and Oversight";

(5) in subsection (c)(2)(A), by—

(A) striking "1997" and inserting "1999";

(B) striking "Mayor" and inserting "Chief Financial Officer"; and

(C) striking "Committee on the District of Columbia" and inserting "Committee on Government Reform and Oversight";

(6) in subsection (c)(2)(B), by striking "Committee on the District of Columbia" and inserting "Committee on Government Reform and Oversight"; and

(7) in subsection (d)(1), by—

(A) striking "1994" and inserting "1997";

(B) striking "Mayor" and inserting "Chief Financial Officer"; and

(C) striking "Committee on the District of Columbia" and inserting "Committee on Government Reform and Oversight".

SEC. 131. For purposes of the appointment of the head of a department of the government of the District of Columbia under section 11105(a) of the National Capital Revitalization and Self-Improvement Act of 1997, Public Law 105-33, the following rules shall apply:

(1) After the Mayor notifies the Council under paragraph (1)(A)(ii) of such section of the nomination of an individual for appointment, the Council shall meet to determine whether to confirm or reject the nomination.

(2) If the Council fails to confirm or reject the nomination during the 7-day period described in paragraph (1)(A)(iii) of such section, the Council shall be deemed to have confirmed the nomination.

(3) For purposes of paragraph (1)(B) of such section, if the Council does not confirm a nomination (or is not deemed to have confirmed a nomination) during the 30-day period described in such paragraph, the Mayor shall be deemed to have failed to nominate an individual during such period to fill the vacancy in the position of the head of the department.

SEC. 132. None of the funds appropriated under this Act shall be expended for any abortion except where the life of the mother would be endangered if the fetus were carried to term or where the pregnancy is the result of an act of rape or incest.

SEC. 133. None of the funds made available in this Act may be used to implement or enforce the Health Care Benefits Expansion Act of 1992 (D.C. Law 9-114; D.C. Code, sec. 36-1401 et seq.) or to otherwise implement or enforce any system of registration of unmarried, cohabiting couples (whether homosexual, heterosexual, or lesbian), including but not limited to registration for the purpose of extending employment, health, or governmental benefits to such couples on the same basis as such benefits are extended to legally married couples.

SEC. 134. The Emergency Transitional Education Board of Trustees shall submit to the Congress, the Mayor, the District of Columbia Financial Responsibility and Management Assistance Authority, and the Council of the District of Columbia no later than fifteen (15) calendar days after the end of each month a report that sets forth—

(1) current month expenditures and obligations, year-to-date expenditures and obligations, and total fiscal year expenditure projections versus budget broken out on the basis of control center, responsibility center, agency reporting code, and object class, and for all funds, including capital financing;

(2) a list of each account for which spending is frozen and the amount of funds frozen, bro-

ken out by control center, responsibility center, detailed object, and agency reporting code, and for all funding sources;

(3) a list of all active contracts in excess of \$10,000 annually, which contains the name of each contractor; the budget to which the contract is charged broken out on the basis of control center, responsibility center, and agency reporting code; and contract identifying codes used by the D.C. Public Schools; payments made in the last month and year-to-date, the total amount of the contract and total payments made for the contract and any modifications, extensions, renewals; and specific modifications made to each contract in the last month;

(4) all reprogramming requests and reports that are required to be, and have been, submitted to the Board of Education; and

(5) changes made in the last month to the organizational structure of the D.C. Public Schools, displaying previous and current control centers and responsibility centers, the names of the organizational entities that have been changed, the name of the staff member supervising each entity affected, and the reasons for the structural change.

SEC. 135. (a) IN GENERAL.—The Emergency Transitional Education Board of Trustees of the District of Columbia and the University of the District of Columbia shall annually compile an accurate and verifiable report on the positions and employees in the public school system and the university, respectively. The annual report shall set forth—

(1) the number of validated schedule A positions in the District of Columbia Public Schools and the University of the District of Columbia for fiscal year 1997, fiscal year 1998, and thereafter on a full-time equivalent basis, including a compilation of all positions by control center, responsibility center, funding source, position type, position title, pay plan, grade, and annual salary; and

(2) a compilation of all employees in the District of Columbia Public Schools and the University of the District of Columbia as of the preceding December 31, verified as to its accuracy in accordance with the functions that each employee actually performs, by control center, responsibility center, agency reporting code, program (including funding source), activity, location for accounting purposes, job title, grade and classification, annual salary, and position control number.

(b) SUBMISSION.—The annual report required by subsection (a) of this section shall be submitted to the Congress, the Mayor, the District of Columbia Council, the Consensus Commission, and the Authority, not later than February 15 of each year.

SEC. 136. (a) No later than October 1, 1997, or within 15 calendar days after the date of the enactment of the District of Columbia Appropriations Act, 1998, whichever occurs later, and each succeeding year, the Emergency Transitional Education Board of Trustees and the University of the District of Columbia shall submit to the appropriate congressional committees, the Mayor, the District of Columbia Council, the Consensus Commission, and the District of Columbia Financial Responsibility and Management Assistance Authority, a revised appropriated funds operating budget for the public school system and the University of the District of Columbia for such fiscal year that is in the total amount of the approved appropriation and that realigns budgeted data for personal services and other-than-personal services, respectively, with anticipated actual expenditures.

(b) The revised budget required by subsection (a) of this section shall be submitted in the format of the budget that the Emergency Transitional Education Board of Trustees and the University of the District of Columbia submit to

the Mayor of the District of Columbia for inclusion in the Mayor's budget submission to the Council of the District of Columbia pursuant to section 442 of the District of Columbia Home Rule Act, Public Law 93-198, as amended (D.C. Code, sec. 47-301).

SEC. 137. The Emergency Transitional Education Board of Trustees, the Board of Trustees of the University of the District of Columbia, the Board of Library Trustees, and the Board of Governors of the University of the District of Columbia School of Law shall vote on and approve their respective annual or revised budgets before submission to the Mayor of the District of Columbia for inclusion in the Mayor's budget submission to the Council of the District of Columbia in accordance with section 442 of the District of Columbia Home Rule Act, Public Law 93-198, as amended (D.C. Code, sec. 47-301), or before submitting their respective budgets directly to the Council.

SEC. 138. (a) CEILING ON TOTAL OPERATING EXPENSES.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the total amount appropriated in this Act for operating expenses for the District of Columbia for fiscal year 1998 under the caption "Division of Expenses" shall not exceed the lesser of—

(A) the sum of the total revenues of the District of Columbia for such fiscal year; or

(B) \$4,811,906,000 (of which \$118,269,000 shall be from intra-District funds), which amount may be increased by the following:

(i) proceeds of one-time transactions, which are expended for emergency or unanticipated operating or capital needs approved by the District of Columbia Financial Responsibility and Management Assistance Authority; and

(ii) additional expenditures which the Chief Financial Officer of the District of Columbia certifies will produce additional revenues during such fiscal year at least equal to 200 percent of such additional expenditures, and which are approved by the District of Columbia Financial Responsibility and Management Assistance Authority.

(C) to the extent that the sum of the total revenues of the District of Columbia for such fiscal year exceed the total amount provided for in subsection (B) above, the Chief Financial Officer of the District of Columbia, with the approval of the District of Columbia Financial Responsibility and Management Assistance Authority, may credit up to ten percent (10%) of the amount of such difference, not to exceed \$3,300,000, to a reserve fund which may be expended for operating purposes in future fiscal years, in accordance with the financial plans and budgets for such years.

(2) ENFORCEMENT.—The Chief Financial Officer of the District of Columbia and the District of Columbia Financial Responsibility and Management Assistance Authority (hereafter in this section referred to as "Authority") shall take such steps as are necessary to assure that the District of Columbia meets the requirements of this section, including the apportioning by the Chief Financial Officer of the appropriations and funds made available to the District during fiscal year 1998.

(b) ACCEPTANCE AND USE OF GRANTS NOT INCLUDED IN CEILING.—

(1) IN GENERAL.—Notwithstanding subsection (a), the Mayor in consultation with the Chief Financial Officer of the District of Columbia during a control year, as defined in section 305(4) of Public Law 104-8, as amended, 109 Stat. 152, may accept, obligate, and expend Federal, private, and other grants received by the District government that are not reflected in the amounts appropriated in this Act.

(2) REQUIREMENT OF CHIEF FINANCIAL OFFICER REPORT AND FINANCIAL RESPONSIBILITY AND

MANAGEMENT ASSISTANCE AUTHORITY APPROVAL.—No such Federal, private, or other grant may be accepted, obligated, or expended pursuant to paragraph (1) until—

(A) the Chief Financial Officer of the District submits to the Authority a report setting forth detailed information regarding such grant; and

(B) the Authority has reviewed and approved the acceptance, obligation, and expenditure of such grant in accordance with review and approval procedures consistent with the provisions of the District of Columbia Financial Responsibility and Management Assistance Act of 1995.

(3) PROHIBITION ON SPENDING IN ANTICIPATION OF APPROVAL OR RECEIPT.—No amount may be obligated or expended from the general fund or other funds of the District government in anticipation of the approval or receipt of a grant under paragraph (2)(B) or in anticipation of the approval or receipt of a Federal, private, or other grant not subject to such paragraph.

(4) MONTHLY REPORTS.—The Chief Financial Officer of the District of Columbia shall prepare a monthly report setting forth detailed information regarding all Federal, private, and other grants subject to this subsection. Each such report shall be submitted to the Council of the District of Columbia, and to the Committees on Appropriations of the House of Representatives and the Senate, not later than 15 days after the end of the month covered by the report.

SEC. 139. The District of Columbia Emergency Transitional Education Board of Trustees shall, subject to the contract approval provisions of Public Law 104-8—

(A) develop a comprehensive plan to identify and accomplish energy conservation measures to achieve maximum cost-effective energy and water savings;

(B) enter into innovative financing and contractual mechanisms including, but not limited to, utility demand-side management programs and energy savings performance contracts and water conservation performance contracts: Provided, That the terms of such contracts do not exceed twenty-five years; and

(C) permit and encourage each department or agency and other instrumentality of the District of Columbia to participate in programs conducted by any gas, electric or water utility of the management of electricity or gas demand or for energy or water conservation.

SEC. 140. If a department or agency of the government of the District of Columbia is under the administration of a court-appointed receiver or other court-appointed official during fiscal year 1998 or any succeeding fiscal year, the receiver or official shall prepare and submit to the Mayor, for inclusion in the annual budget of the District of Columbia for the year, annual estimates of the expenditures and appropriations necessary for the maintenance and operation of the department or agency. All such estimates shall be forwarded by the Mayor to the Council, for its action pursuant to sections 446 and 603(c) of the District of Columbia Home Rule Act, without revision but subject to the Mayor's recommendations. Notwithstanding any provision of the District of Columbia Home Rule Act, the Council may comment or make recommendations concerning such annual estimates but shall have no authority under such Act to revise such estimates.

SEC. 141. In addition to amounts appropriated or otherwise made available, \$5,000,000 is hereby appropriated to the National Park Service and shall be available only for the United States Park Police operations in the District of Columbia.

SEC. 142. The District government shall maintain for fiscal year 1998 the same funding levels as provided in fiscal year 1997 for homeless services in the District of Columbia.

SEC. 143. The District of Columbia Financial Responsibility and Management Assistance Au-

thority and the Chief Executive Officer of the District of Columbia public schools are hereby directed to report to the Appropriations Committees of the Senate and the House of Representatives, the Senate Committee on Governmental Affairs and the Committee on Government Reform and Oversight of the House of Representatives not later than April 1, 1998, on all measures necessary and steps to be taken to ensure that the District's public schools open on time to begin the 1998-99 academic year.

SEC. 144. There are appropriated from applicable funds of the District of Columbia such sums as may be necessary to hire 12 additional inspectors for the Alcoholic Beverage Commission. Of the additional inspectors, 6 shall focus their responsibilities on the enforcement of laws relating to the sale of alcohol to minors.

SEC. 145. (a) Not later than 6 months after the date of enactment of this Act, the General Accounting Office shall conduct and submit to Congress a study of—

(1) the District of Columbia's alcoholic beverage tax structure and its relation to surrounding jurisdictions;

(2) the effects of the District of Columbia's lower excise taxes on alcoholic beverages on consumption of alcoholic beverages in the District of Columbia;

(3) ways in which the District of Columbia's tax structure can be revised to bring it into conformity with the higher levels in surrounding jurisdictions; and

(4) ways in which those increased revenues can be used to lower consumption and promote abstinence from alcohol among young people.

(b) The study should consider whether—

(1) alcohol is being sold in proximity to schools and other areas where children are likely to be; and

(2) creation of alcohol free zones in areas frequented by children would be useful in deterring underage alcohol consumption.

SEC. 146. Of the amounts appropriated in this Act to the District of Columbia, funds may be expended to—

(1) hire 5 additional inspectors for the Department of Consumer and Regulatory Affairs to focus on monitoring day care centers and home day care operations; and

(2) hire 5 additional Department of Human Services monitors to focus on selecting quality day care centers eligible for public financing and monitoring safety standards at such centers.

(b) Nothing in this section shall be deemed to supersede or otherwise preempt the development and implementation of the management reform plan for the Department of Consumer and Regulatory Affairs and the Department of Human Services as authorized in the District of Columbia Management Reform Act of 1997 (Subtitle B, Title XI, Public Law 105-33).

SEC. 147. (a) SHORT TITLE; FINDINGS; PURPOSE.—

(1) SHORT TITLE.—This section may be cited as the "Nation's Capital Bicentennial Designation Act".

(2) FINDINGS.—The Senate finds that—

(A) the year 2000 will mark the 200th anniversary of Washington, D.C. as the Nation's permanent capital, commencing when the Government moved from Philadelphia to the Federal City;

(B) the framers of the Constitution provided for the establishment of a special district to serve as "the seat of Government of the United States";

(C) the site for the city was selected under the direction of President George Washington, with construction initiated in 1791;

(D) in submitting his design to Congress, Major Pierre Charles L'Enfant included numerous parks, fountains, and sweeping avenues de-

signed to reflect a vision as grand and as ambitious as the American experience itself;

(E) the capital city was named after President George Washington to commemorate and celebrate his triumph in building the Nation;

(F) as the seat of Government of the United States for almost 200 years, the Nation's capital has been a center of American culture and a world symbol of freedom and democracy;

(G) from Washington, D.C., President Abraham Lincoln labored to preserve the Union and the Reverend Martin Luther King, Jr. led an historic march that energized the civil rights movement, reminding America of its promise of liberty and justice for all; and

(H) the Government of the United States must continually work to ensure that the Nation's capital is and remains the shining city on the hill.

(3) PURPOSE.—The purposes of this section are to—

(A) designate the year 2000 as the "Year of National Bicentennial Celebration for Washington, D.C.—the Nation's Capital"; and

(B) establish the Presidents' Day holiday in the year 2000 as a day of national celebration for the 200th anniversary of Washington, D.C.

(b) NATION'S CAPITAL NATIONAL BICENTENNIAL.—

(1) IN GENERAL.—The year 2000 is designated as the "Year of the National Bicentennial Celebration for Washington, D.C.—the Nation's Capital" and the Presidents' Day Federal holiday in the year 2000 is designated as a day of national celebration for the 200th anniversary of Washington, D.C.

(2) SENSE OF THE SENATE.—It is the sense of the Senate that all Federal entities should coordinate with and assist the Nation's Capital Bicentennial Celebration, a nonprofit 501(c)(3) entity, organized and operating pursuant to the laws of the District of Columbia, to ensure the success of events and projects undertaken to renew and celebrate the bicentennial of the establishment of Washington, D.C. as the Nation's capital.

SEC. 148. Notwithstanding section 602(c)(1) of the District of Columbia Home Rule Act (sec. 1-233(c)(1), D.C. Code), General Obligation Bond Act of 1998 (D.C. Bill 12-371), if enacted by the Council of the District of Columbia and approved by the District of Columbia Financial Responsibility and Management Assistance Authority, shall take effect on the date of such approval or the date of the enactment of this Act, whichever is later.

SEC. 149. (a) Notwithstanding any other provision of law, rule, or regulation, an employee of the District of Columbia Public Schools shall be—

(1) classified as an Educational Service employee;

(2) placed under the personnel authority of the Board of Education; and

(3) subject to all Board of Education rules.

(b) School-based personnel shall constitute a separate competitive area from nonschool-based personnel who shall not compete with school-based personnel for retention purposes.

SEC. 150. (a) RESTRICTIONS ON USE OF OFFICIAL VEHICLES.—(1) None of the funds made available by this Act or by any other Act may be used to provide any officer or employee of the District of Columbia with an official vehicle unless the officer or employee uses the vehicle only in the performance of the officer's or employee's official duties. For purposes of this paragraph, the term "official duties" does not include travel between the officer's or employee's residence and workplace (except in the case of a police officer who resides in the District of Columbia).

(2) The Chief Financial Officer of the District of Columbia shall submit, by December 15, 1997, an inventory, as of September 30, 1997, of all vehicles owned, leased or operated by the District

of Columbia government. The inventory shall include, but not be limited to, the department to which the vehicle is assigned; the year and make of the vehicle; the acquisition date and cost; the general condition of the vehicle; annual operating and maintenance costs; current mileage; and whether the vehicle is allowed to be taken home by a District officer or employee and if so, the officer or employee's title and resident location.

(b) SOURCE OF PAYMENT FOR EMPLOYEES DETAILLED WITHIN GOVERNMENT.—For purposes of determining the amount of funds expended by any entity within the District of Columbia government during fiscal year 1998 and each succeeding fiscal year, any expenditures of the District government attributable to any officer or employee of the District government who provides services which are within the authority and jurisdiction of the entity (including any portion of the compensation paid to the officer or employee attributable to the time spent in providing such services) shall be treated as expenditures made from the entity's budget, without regard to whether the officer or employee is assigned to the entity or otherwise treated as an officer or employee of the entity.

(c) RESTRICTING PROVIDERS FROM WHOM EMPLOYEES MAY RECEIVE DISABILITY COMPENSATION SERVICES.—

(1) IN GENERAL.—Section 2303(a) of the District of Columbia Comprehensive Merit Personnel Act of 1978 (D.C. Code, sec. 1-624.3(a)) is amended by striking paragraph (3) and all that follows and inserting the following:

"(3) By or on the order of the District of Columbia government medical officers and hospitals, or by or on the order of a physician or managed care organization designated or approved by the Mayor."

(2) SERVICES FURNISHED.—Section 2303 of such Act (D.C. Code, sec. 1-624.3) is amended by adding at the end the following new subsection:

"(c)(1) An employee to whom services, appliances, or supplies are furnished pursuant to subsection (a) shall be provided with such services, appliances, and supplies (including reasonable transportation incident thereto) by a managed care organization or other health care provider designated by the Mayor, in accordance with such rules, regulations, and instructions as the Mayor considers appropriate.

"(2) Any expenses incurred as a result of furnishing services, appliances, or supplies which are authorized by the Mayor under paragraph (1) shall be paid from the Employees' Compensation Fund.

"(3) Any medical service provided pursuant to this subsection shall be subject to utilization review under section 2323."

(3) REPEAL PENALTY FOR DELAYED PAYMENT OF COMPENSATION.—Section 2324 of such Act (D.C. Code, sec. 1-624.24) is amended by striking subsection (c).

(4) DEFINITIONS.—Section 2301 of such Act (D.C. Code, sec. 1-624.1) is amended—

(A) in the first sentence of subsection (c), by inserting "and as designated by the Mayor to provide services to injured employees" after "State law"; and

(B) by adding at the end the following new subsection:

"(r)(1) The term 'managed care organization' means an organization of physicians and allied health professionals organized to and capable of providing systematic and comprehensive medical care and treatment of injured employees which is designated by the Mayor to provide such care and treatment under this title.

"(2) The term 'allied health professional' means a medical care provider (including a nurse, physical therapist, laboratory technician, X-ray technician, social worker, or other provider who provides such care within the scope of

practice under applicable law) who is employed by or affiliated with a managed care organization."

(5) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to services, supplies, or appliances furnished under title XXIII of the District of Columbia Merit Personnel Act of 1978 on or after the date of the enactment of this Act.

(d) MODIFICATION OF REDUCTION IN FORCE PROCEDURES.—The District of Columbia Government Comprehensive Merit Personnel Act of 1978 (D.C. Code, sec. 1-601.1 et seq.), as amended by section 140(b) of the District of Columbia Appropriations Act, 1997 (Public Law 104-194), is amended by adding at the end the following new section:

**"SEC. 2408. ABOLISHMENT OF POSITIONS FOR FISCAL YEAR 1998.**

"(a) Notwithstanding any other provision of law, regulation, or collective bargaining agreement either in effect or to be negotiated while this legislation is in effect for the fiscal year ending September 30, 1998, each agency head is authorized, within the agency head's discretion, to identify positions for abolishment.

"(b) Prior to February 1, 1998, each personnel authority (other than a personnel authority of an agency which is subject to a management reform plan under subtitle B of title XI of the Balanced Budget Act of 1997) shall make a final determination that a position within the personnel authority is to be abolished.

"(c) Notwithstanding any rights or procedures established by any other provision of this title, any District government employee, regardless of date of hire, who encumbers a position identified for abolishment shall be separated without competition or assignment rights, except as provided in this section.

"(d) An employee affected by the abolishment of a position pursuant to this section who, but for this section would be entitled to compete for retention, shall be entitled to one round of lateral competition pursuant to Chapter 24 of the District of Columbia Personnel Manual, which shall be limited to positions in the employee's competitive level.

"(e) Each employee selected for separation pursuant to this section shall be given written notice of at least 30 days before the effective date of his or her separation.

"(f) Neither the establishment of a competitive area smaller than an agency, nor the determination that a specific position is to be abolished, nor separation pursuant to this section shall be subject to review except that—

"(1) an employee may file a complaint contesting a determination or a separation pursuant to title XV of this Act or section 303 of the Human Rights Act of 1977 (D.C. Code, sec. 1-2543); and

"(2) an employee may file with the Office of Employee Appeals an appeal contesting that the separation procedures of subsections (d) and (f) were not properly applied.

"(g) An employee separated pursuant to this section shall be entitled to severance pay in accordance with title XI of this Act, except that the following shall be included in computing creditable service for severance pay for employees separated pursuant to this section—

"(1) four years for an employee who qualified for veterans preference under this Act, and

"(2) three years for an employee who qualified for residency preference under this Act.

"(h) Separation pursuant to this section shall not affect an employee's rights under either the Agency Reemployment Priority Program or the Displaced Employee Program established pursuant to Chapter 24 of the District Personnel Manual.

"(i) With respect to agencies which are not subject to a management reform plan under sub-

title B of title XI of the Balanced Budget Act of 1997, the Mayor shall submit to the Council a listing of all positions to be abolished by agency and responsibility center by March 1, 1998 or upon the delivery of termination notices to individual employees.

"(j) Notwithstanding the provisions of section 1708 or section 2402(d), the provisions of this Act shall not be deemed negotiable.

"(k) A personnel authority shall cause a 30-day termination notice to be served, no later than September 1, 1998, on any incumbent employee remaining in any position identified to be abolished pursuant to subsection (b) of this section.

"(l) In the case of an agency which is subject to a management reform plan under subtitle B of title XI of the Balanced Budget Act of 1997, the authority provided by this section shall be exercised to carry out the agency's management reform plan, and this section shall otherwise be implemented solely in a manner consistent with such plan."

SEC. 151. (a) COMPLIANCE WITH BUY AMERICAN ACT.—None of the funds made available in this Act may be expended by an entity unless the entity agrees that in expending the funds the entity will comply with the Buy American Act (41 U.S.C. 10a-10c).

(b) SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE.—

(1) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case of any equipment or product that may be authorized to be purchased with financial assistance provided using funds made available in this Act, it is the sense of the Congress that entities receiving the assistance should, in expending the assistance, purchase only American-made equipment and products to the greatest extent practicable.

(2) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance using funds made available in this Act, the head of each agency of the Federal or District of Columbia government shall provide to each recipient of the assistance a notice describing the statement made in paragraph (1) by the Congress.

(c) PROHIBITION OF CONTRACTS WITH PERSONS FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available in this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 152. (a) CAP ON STIPENDS OF RETIREMENT BOARD MEMBERS.—Section 121(c)(1) of the District of Columbia Retirement Reform Act (D.C. Code, sec. 1-711(c)(1)) is amended by striking the period at the end and inserting the following: ", and the total amount to which a member may be entitled under this subsection during a year (beginning with 1998) may not exceed \$5,000."

(b) RESUMPTION OF CERTAIN TERMINATED ANNUITIES PAID TO CHILD SURVIVORS OF DISTRICT OF COLUMBIA POLICE AND FIREFIGHTERS.—

(1) IN GENERAL.—Subsection (k)(5) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4-622(e)) is amended by adding at the end the following new subparagraph:

"(D) If the annuity of a child under subparagraph (A) or subparagraph (B) terminates because of marriage and such marriage ends, the annuity shall resume on the first day of the month in which it ends, but only if the individual is not otherwise ineligible for the annuity."

(2) **EFFECTIVE DATE.**—The amendment made by paragraph (1) shall apply with respect to any termination of marriage taking effect on or after November 1, 1993, except that benefits shall be payable only with respect to amounts accruing for periods beginning on the first day of the month beginning after the later of such termination of marriage or such date of enactment.

**SEC. 153. (a) IN GENERAL.**—The Council of the District of Columbia shall annually review and adjust the amount of the monthly assistance payment that may be made under the Temporary Assistance for Needy Families Program so that such payment is comparable with the monthly assistance payments made under such program in Maryland and Virginia counties that are contiguous to the District of Columbia.

(b) **EFFECTIVE DATE.**—Subsection (a) shall apply with respect to fiscal year 1998 and each succeeding fiscal year.

**SEC. 154.** Effective as if included in the enactment of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, section 517 of such Act (110 Stat. 1321-248) is amended by striking "October 1, 1991" and inserting "the date of the enactment of this Act".

**SEC. 155. REQUIRING PLACEMENT OF INSPECTOR GENERAL HOTLINE ON PERMIT AND LICENSE APPLICATION FORMS.**—

(1) **IN GENERAL.**—Each District of Columbia permit or license application form printed after the expiration of the 30-day period which begins on the date of the enactment of this Act shall include the telephone number established by the Inspector General of the District of Columbia for reporting instances of waste, fraud, and abuse, together with a brief description of the uses and purposes of such number.

(2) **QUARTERLY REPORTS ON USE OF NUMBER.**—Not later than 10 days after the end of such calendar quarter of each fiscal year (beginning with fiscal year 1998), the Inspector General of the District of Columbia shall submit a report to Congress on the number and nature of the calls received through the telephone number described in paragraph (1) during the quarter and on the waste, fraud, and abuse detected as a result of such calls.

**SEC. 156. (a) IN GENERAL.**—Notwithstanding any other provision of law (including any law or regulation providing for collective bargaining or the enforcement of any collective bargaining agreement) or collective bargaining agreement, any payment made by the District of Columbia after the expiration of the 45-day period which begins on the date of the enactment of this Act to any person shall be made by—

(1) direct deposit through electronic funds transfer to a checking, savings, or other account designated by the person; or

(2) a check delivered through the United States Postal Service to the person's place of residence or business.

(b) **REGULATIONS.**—The Chief Financial Officer of the District of Columbia is authorized to issue rules to carry out this section.

**SEC. 157. (a) DEPOSIT OF ANNUAL FEDERAL CONTRIBUTION WITH AUTHORITY.**—

(1) **IN GENERAL.**—The District of Columbia Financial Responsibility and Management Assistance Act of 1995, as amended by section 11601(b)(2) of the Balanced Budget Act of 1997, is amended by inserting after section 204 the following new section:

**"SEC. 205. DEPOSIT OF ANNUAL FEDERAL CONTRIBUTION WITH AUTHORITY.**

**"(a) IN GENERAL.**—

**"(1) DEPOSIT INTO ESCROW ACCOUNT.**—In the case of a fiscal year which is a control year, the Secretary of the Treasury shall deposit any Federal contribution to the District of Columbia for the year authorized under section 11601(c)(2) of the Balanced Budget Act of 1997 into an escrow account held by the Authority, which shall allo-

cate the funds to the Mayor at such intervals and in accordance with such terms and conditions as it considers appropriate to implement the financial plan for the year. In establishing such terms and conditions, the Authority shall give priority to using the Federal contribution for cash flow management and the payment of outstanding bills owed by the District government.

**"(2) EXCEPTION FOR AMOUNTS WITHHELD FOR ADVANCES.**—Paragraph (1) shall not apply with respect to any portion of the Federal contribution which is withheld by the Secretary of the Treasury in accordance with section 605(b)(2) of title VI of the District of Columbia Revenue Act of 1939 to reimburse the Secretary for advances made under title VI of such Act.

**"(b) EXPENDITURE OF FUNDS FROM ACCOUNT IN ACCORDANCE WITH AUTHORITY INSTRUCTIONS.**—Any funds allocated by the Authority to the Mayor from the escrow account described in paragraph (1) may be expended by the Mayor only in accordance with the terms and conditions established by the Authority at the time the funds are allocated."

(2) **CLERICAL AMENDMENT.**—The table of contents for such Act is amended by inserting after the item relating to section 204 the following new item:

"Sec. 205. Deposit of annual Federal contribution with Authority."

(3) **EFFECTIVE DATE.**—The amendments made by this subsection shall take effect as if included in the enactment of the Balanced Budget Act of 1997.

(b) **DISHONORED CHECK COLLECTION.**—The Act entitled "An Act to authorize the Commissioners of the District of Columbia to prescribe penalties for the handling and collection of dishonored checks", approved September 28, 1965 (D.C. Code, sec. 1-357) is amended—

(1) in subsection (a) by inserting after the third sentence the following: "The Mayor may enter into a contract to collect the amount of the original obligation."; and

(2) by adding at the end the following new subsections:

**"(c) In a case in which the amount of a dishonored or unpaid check is collected as a result of a contract, the Mayor shall collect any costs or expenses incurred to collect such amount from such person who gives or causes to be given, in payment of any obligation or liability due the government of the District of Columbia, a check which is subsequently dishonored or not duly paid. In a case in which the amount of a dishonored or unpaid check is collected as a result of an action at law or in equity, such costs and expenses shall include litigation expenses and attorney's fees.**

**"(d) An action at law or in equity for the recovery of any amount owed to the District as a result of subsection (c), including any litigation expenses or attorney's fees may be initiated—**

**"(1) by the Corporation Counsel of the District of Columbia; or**

**"(2) in a case in which the Corporation Counsel does not exercise his or her authority, by the person who provides collection services as a result of a contract with the Mayor.**

**"(e) Nothing in this section may be construed to eliminate the Mayor's exclusive authority with respect to any obligations and liabilities of the District of Columbia."**

(c) **CONFORMING REFERENCES TO INTERNAL REVENUE CODE OF 1986.**—Section 4(28A) of the District of Columbia Income and Franchise Act of 1947 (D.C. Code, sec. 47-1801.4(28A)) is amended to read as follows:

**"(28A) The term 'Internal Revenue Code of 1986' means the Internal Revenue Code of 1986 (100 Stat. 2085; 26 U.S.C. 1 et seq.), as amended through August 20, 1996. The provisions of the Internal Revenue Code of 1986 shall be effective**

on the same dates that they are effective for Federal tax purposes."

(d) **STANDARD FOR REVIEW OF RECOMMENDATIONS OF BUSINESS REGULATORY REFORM COMMISSION IN REVIEW OF REGULATIONS BY AUTHORITY.**—Section 11701(a)(1) of the Balanced Budget Act of 1997 is amended by striking the second sentence and inserting the following: "In carrying out such review, the Authority shall include an explicit reference to each recommendation made by the Business Regulatory Reform Commission pursuant to the Business Regulatory Reform Commission Act of 1994 (D.C. Code, sec. 2-4101 et seq.), together with specific findings and conclusions with respect to each such recommendation."

(e) **TECHNICAL CORRECTIONS RELATING TO BALANCED BUDGET ACT OF 1997.**—(1) Effective as if included in the enactment of the Balanced Budget Act of 1997, section 453(c) of the District of Columbia Home Rule Act (D.C. Code, sec. 47-304.1(c)), as amended by section 11243(d) of the Balanced Budget Act of 1997, is amended to read as follows:

**"(c) Subsection (a) shall not apply to amounts appropriated or otherwise made available to the Council, the District of Columbia Financial Responsibility and Management Assistance Authority established under section 101(a) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, or the District of Columbia Water and Sewer Authority established pursuant to the Water and Sewer Authority Establishment and Department of Public Works Reorganization Act of 1996."**

(2) Section 11201(g)(2)(A)(ii) of the Balanced Budget Act of 1997 is amended—

(A) in the heading, by striking "DEPARTMENT OF PARKS AND RECREATION" and inserting "PARKS AUTHORITY"; and

(B) by striking "Department of Parks and Recreation" and inserting "Parks Authority".

(f) **REPEAL OF PRIOR NOTICE REQUIREMENT FOR FEDERAL ACTIVITIES AFFECTING REAL PROPERTY IN DISTRICT OF COLUMBIA.**—Effective October 1, 1997, the Balanced Budget Act of 1997 (Public Law 105-33) is amended by striking section 11715.

**SEC. 158.** Notwithstanding any provision of any Federally-granted charter or any other provision of law, the real property of the National Education Association located in the District of Columbia shall be subject to taxation by the District of Columbia in the same manner as any similar organization.

**SEC. 159. (a) Section 501(c)(4) of the District of Columbia Police and Firemen's Act of 1958 (D.C. Code, sec. 4-416(c)(4)) is amended by striking "locality pay" and inserting "longevity pay".**

(b) The amendment made by subsection (a) is effective on the date of enactment of Public Law 105-61.

**SEC. 160.** In addition to amounts appropriated or otherwise made available, \$3,000,000 is appropriated for the purpose of funding a Medicare Coordinated Care Demonstration Project in the District of Columbia as specified in section 4016(b)(2)(C) of the Balanced Budget Act of 1997.

**SEC. 161.** Nothing in this Act shall be construed to authorize any office, agency or entity to expend funds for programs or functions for which a reorganization plan is required but has not been approved by the District of Columbia Financial Responsibility and Management Assistance Authority (hereafter in this section referred to as "Authority"). Appropriations made by this Act for such programs or functions are conditioned only on the approval by the Authority of the required reorganization plans.

**SEC. 162.** Effective as if included in the enactment of subtitle J of title IV of the Balanced Budget Act of 1997 (Public Law 105-33) the Social Security Act is amended as follows:

(1) The fourth sentence of section 1905(b) of such Act (42 U.S.C. 1396d(b)) is amended by inserting "for the State for a fiscal year, and that do not exceed the amount of the State's allotment under section 2104 (not taking into account reductions under section 2104(d)(2)) for the fiscal year reduced by the amount of any payments made under section 2105 to the State from such allotment for such fiscal year," after "subsection (u)(3)".

(2) Section 1905(u) of such Act (42 U.S.C. 1396d(u)) is amended—

(A) in paragraph (1)(B), by striking "paragraph (2)" and inserting "the fourth sentence of subsection (b)";

(B) in paragraph (2)(A), by striking "(C), but not in excess" and all that follows up to the period at the end and inserting "(B)";

(C) by striking subparagraphs (B) and (C) of paragraph (2) and inserting the following:

"(B) For purposes of this paragraph, the term 'optional targeted low-income child' means a targeted low-income child as defined in section 2110(b)(1) (determined without regard to that portion of subparagraph (C) of such section concerning eligibility for medical assistance under this title) who would not qualify for medical assistance under the State plan under this title as in effect on March 31, 1997 (but taking into account the expansion of age of eligibility effected through the operation of section 1902(l)(1)(D)).";

(D) in paragraph (3)—

(i) by striking "described in this subparagraph" and inserting "described in this paragraph"; and

(ii) by striking "April 15, 1997" and inserting "March 31, 1997"; and

(E) by adding at the end the following:

"(4) The limitations on payment under subsections (f) and (g) of section 1108 shall not apply to Federal payments made under section 1903(a)(1) based on an enhanced FMAP described in section 2105(b).";

(3) Section 2110(b) of such Act (42 U.S.C. 1397jj(b)) is amended—

(A) in paragraph (1)(B)(ii) to read as follows: "(ii) is a child—

(I) whose family income (as determined under the State child health plan) exceeds the Medicaid applicable income level (as defined in paragraph (4)), but does not exceed 50 percentage points above the Medicaid applicable income level;

(II) whose family income (as so determined) does not exceed the Medicaid applicable income level (as defined in paragraph (4)) but determined as if 'June 1, 1997' were substituted for 'March 31, 1997'; or

(III) who resides in a State that does not have a Medicaid applicable income level (as defined in paragraph (4)); and"; and

(B) in paragraph (4)—

(i) by striking "June 1, 1997" and inserting "March 31, 1997"; and

(ii) by inserting "or 1905(n)(2) (as selected by a State)" after "1902(l)(2)".

(4) Section 1903(f)(4) of such Act (42 U.S.C. 1396b(f)(4)) is amended by striking "or 1905(p)(1)" and inserting "1905(p)(1), or 1905(u)".

(5) Section 2105(c)(2)(A) of such Act (42 U.S.C. 1397ee(c)(2)(A)) is amended to read as follows—

"(A) IN GENERAL.—Except as provided in this paragraph, payment shall not be made under subsection (a) for expenditures for items described in subsection (a) (other than paragraph (1)) for a fiscal year to the extent the total of such expenditures (for which payment is made under such subsection) exceeds 10 percent of the sum of—

(i) the total of such expenditures for such fiscal year, and

(ii) the total expenditures for medical assistance by the State under title XIX for which

Federal payments made under section 1903(a)(1) are based on an enhanced FMAP described in section 2105(b) for such fiscal year."

(6) Section 2104 of such Act (42 U.S.C. 1397dd) is amended—

(A) in subsection (d)(1), by striking "for calendar quarters" and inserting "for expenditures claimed by the State"; and

(B) by striking subsection (d)(2) and inserting the following:

"(2) the amount (if any) of the payments made to that State under section 1903(a) for expenditures claimed by the State during such fiscal year that is attributable to the provision of medical assistance to a child for which payment is made under section 1903(a)(1) on the basis of an enhanced FMAP under the fourth sentence of section 1905(b).";

(7) Section 2105 of such Act (42 U.S.C. 1397ee) is amended by adding at the end the following:

"(f) FLEXIBILITY IN SUBMITTAL OF CLAIMS.—Nothing in this section or subsections (e) and (f) of section 2104 shall be construed as preventing a State from claiming as expenditures in the quarter expenditures that were incurred in a previous quarter.";

(8) Section 2104 of such Act (42 U.S.C. 1397dd) is amended—

(A) in subsection (a)(1), by striking "\$4,275,000,000" and inserting "\$4,295,000,000";

(B) in subsection (b)(4), by striking "Subject to paragraph (5), in" and inserting "In"; and

(C) in subsection (c)—

(i) in paragraph (2)(C), by inserting "the" before "Virgin Islands", and

(ii) in paragraphs (3)(C) and (3)(E), by striking "the" and inserting "The".

(9) Section 2110(c)(3) of such Act (42 U.S.C. 1397jj(c)(3)) is amended by striking "2191" and inserting "2791".

SEC. 163. The Administrator of General Services is authorized to amend the use restriction contained in the Administrator's 1956 conveyance of land to the City of Bonham, Texas, mandated by Public Law 586 of the 84th Congress. The amended use restriction will limit the property to state veterans, nursing homes and public safety communications purposes only.

SEC. 164. Notwithstanding any other provision of law, rule, or regulation, the evaluation process and instruments for evaluating District of Columbia Public Schools employees shall be a non-negotiable item for collective bargaining purposes.

SEC. 165. There are appropriated from such funds of the District of Columbia, as are deemed appropriate by the District of Columbia Financial Responsibility and Management Assistance Authority, \$2,600,000, for the Fire and Emergency Medical Services Department for a 5 percent pay increase for uniformed fire fighters.

SEC. 166. During fiscal year 1998, from funds available to the Department of Defense, up to \$800,000 is available to the Department of Defense to compensate persons who have suffered documented commercial loss of cranberry crops in 1997 in the Mashpee or Falmouth bogs, located on the Quashnet and Coonamessett Rivers, respectively, as a result of the presence of ethylene dibromide (EDB) in or on cranberries from either of the plumes of EDB-contaminated groundwater known as "FS 28" and "FS-1" adjacent to the Massachusetts Military Reservation, Cape Cod, Massachusetts.

TITLE II—CLARIFICATION OF ELIGIBILITY FOR RELIEF FROM REMOVAL AND DEPORTATION FOR CERTAIN ALIENS

SEC. 201. SHORT TITLE.—This title may be cited as the "Nicaraguan Adjustment and Central American Relief Act".

SEC. 202. ADJUSTMENT OF STATUS OF CERTAIN NICARAGUANS AND CUBANS. (a) ADJUSTMENT OF STATUS.—

(1) IN GENERAL.—Notwithstanding section 245(c) of the Immigration and Nationality Act,

the status of any alien described in subsection (b) shall be adjusted by the Attorney General to that of an alien lawfully admitted for permanent residence, if the alien—

(A) applies for such adjustment before April 1, 2000; and

(B) is otherwise eligible to receive an immigrant visa and is otherwise admissible to the United States for permanent residence, except in determining such admissibility the grounds for inadmissibility specified in paragraphs (4), (5), (6)(A), and (7)(A) of section 212(a) of the Immigration and Nationality Act shall not apply.

(2) RELATIONSHIP OF APPLICATION TO CERTAIN ORDERS.—An alien present in the United States who has been ordered excluded, deported, removed, or ordered to depart voluntarily from the United States under any provision of the Immigration and Nationality Act may, notwithstanding such order, apply for adjustment of status under paragraph (1). Such an alien may not be required, as a condition of submitting or granting such application, to file a separate motion to reopen, reconsider, or vacate such order. If the Attorney General grants the application, the Attorney General shall cancel the order. If the Attorney General renders a final administrative decision to deny the application, the order shall be effective and enforceable to the same extent as if the application had not been made.

(b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STATUS.—

(1) IN GENERAL.—The benefits provided by subsection (a) shall apply to any alien who is a national of Nicaragua or Cuba and who has been physically present in the United States for a continuous period, beginning not later than December 1, 1995, and ending not earlier than the date the application for adjustment under such subsection is filed, except an alien shall not be considered to have failed to maintain continuous physical presence by reason of an absence, or absences, from the United States for any periods in the aggregate not exceeding 180 days.

(2) PROOF OF COMMENCEMENT OF CONTINUOUS PRESENCE.—For purposes of establishing that the period of continuous physical presence referred to in paragraph (1) commenced not later than December 1, 1995, an alien—

(A) shall demonstrate that the alien, prior to December 1, 1995—

(i) applied to the Attorney General for asylum;

(ii) was issued an order to show cause under section 242 or 242B of the Immigration and Nationality Act (as in effect prior to April 1, 1997);

(iii) was placed in exclusion proceedings under section 236 of such Act (as so in effect);

(iv) applied for adjustment of status under section 245 of such Act;

(v) applied to the Attorney General for employment authorization;

(vi) performed service, or engaged in a trade or business, within the United States which is evidenced by records maintained by the Commissioner of Social Security; or

(vii) applied for any other benefit under the Immigration and Nationality Act by means of an application establishing the alien's presence in the United States prior to December 1, 1995; or

(B) shall make such other demonstration of physical presence as the Attorney General may provide for by regulation.

(c) STAY OF REMOVAL; WORK AUTHORIZATION.—

(1) IN GENERAL.—The Attorney General shall provide by regulation for an alien subject to a final order of deportation or removal to seek a stay of such order based on the filing of an application under subsection (a).

(2) DURING CERTAIN PROCEEDINGS.—Notwithstanding any provision of the Immigration and

Nationality Act, the Attorney General shall not order any alien to be removed from the United States, if the alien is in exclusion, deportation, or removal proceedings under any provision of such Act and has applied for adjustment of status under subsection (a), except where the Attorney General has rendered a final administrative determination to deny the application.

(3) **WORK AUTHORIZATION.**—The Attorney General may authorize an alien who has applied for adjustment of status under subsection (a) to engage in employment in the United States during the pendency of such application and may provide the alien with an "employment authorized" endorsement or other appropriate document signifying authorization of employment, except that if such application is pending for a period exceeding 180 days, and has not been denied, the Attorney General shall authorize such employment.

(d) **ADJUSTMENT OF STATUS FOR SPOUSES AND CHILDREN.**—

(1) **IN GENERAL.**—Notwithstanding section 245(c) of the Immigration and Nationality Act, the status of an alien shall be adjusted by the Attorney General to that of an alien lawfully admitted for permanent residence, if—

(A) the alien is a national of Nicaragua or Cuba;

(B) the alien is the spouse, child, or unmarried son or daughter, of an alien whose status is adjusted to that of an alien lawfully admitted for permanent residence under subsection (a), except that in the case of such an unmarried son or daughter, the son or daughter shall be required to establish that they have been physically present in the United States for a continuous period, beginning not later than December 1, 1995, and ending not earlier than the date the application for adjustment under this subsection is filed;

(C) the alien applies for such adjustment and is physically present in the United States on the date the application is filed;

(D) the alien is otherwise eligible to receive an immigrant visa and is otherwise admissible to the United States for permanent residence, except in determining such admissibility the grounds for exclusion specified in paragraphs (4), (5), (6)(A), and (7)(A) of section 212(a) of the Immigration and Nationality Act shall not apply; and

(E) applies for such adjustment before April 1, 2000.

(2) **PROOF OF CONTINUOUS PRESENCE.**—For purposes of establishing the period of continuous physical presence referred to in paragraph (1)(B), an alien—

(A) shall demonstrate that such period commenced not later than December 1, 1995, in a manner consistent with subsection (b)(2); and

(B) shall not be considered to have failed to maintain continuous physical presence by reason of an absence, or absences, from the United States for any period in the aggregate not exceeding 180 days.

(e) **AVAILABILITY OF ADMINISTRATIVE REVIEW.**—The Attorney General shall provide to applicants for adjustment of status under subsection (a) the same right to, and procedures for, administrative review as are provided to—

(1) applicants for adjustment of status under section 245 of the Immigration and Nationality Act; or

(2) aliens subject to removal proceedings under section 240 of such Act.

(f) **LIMITATION ON JUDICIAL REVIEW.**—A determination by the Attorney General as to whether the status of any alien should be adjusted under this section is final and shall not be subject to review by any court.

(g) **NO OFFSET IN NUMBER OF VISAS AVAILABLE.**—When an alien is granted the status of having been lawfully admitted for permanent

residence pursuant to this section, the Secretary of State shall not be required to reduce the number of immigrant visas authorized to be issued under any provision of the Immigration and Nationality Act.

(h) **APPLICATION OF IMMIGRATION AND NATIONALITY ACT PROVISIONS.**—Except as otherwise specifically provided in this section, the definitions contained in the Immigration and Nationality Act shall apply in the administration of this section. Nothing contained in this section shall be held to repeal, amend, alter, modify, affect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of such Act or any other law relating to immigration, nationality, or naturalization. The fact that an alien may be eligible to be granted the status of having been lawfully admitted for permanent residence under this section shall not preclude the alien from seeking such status under any other provision of law for which the alien may be eligible.

SEC. 203. **MODIFICATION OF CERTAIN TRANSITIONAL RULES.** (a) **TRANSITIONAL RULES WITH REGARD TO SUSPENSION OF DEPORTATION.**—

(1) **IN GENERAL.**—Section 309(c)(5) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104-208; division C; 110 Stat. 3009-627) is amended to read as follows:

"(5) **TRANSITIONAL RULES WITH REGARD TO SUSPENSION OF DEPORTATION.**—

"(A) **IN GENERAL.**—Subject to subparagraphs (B) and (C), paragraphs (1) and (2) of section 240A(d) of the Immigration and Nationality Act (relating to continuous residence or physical presence) shall apply to orders to show cause (including those referred to in section 242B(a)(1) of the Immigration and Nationality Act, as in effect before the title III-A effective date), issued before, on, or after the date of the enactment of this Act.

"(B) **EXCEPTION FOR CERTAIN ORDERS.**—In any case in which the Attorney General elects to terminate and reinstate proceedings in accordance with paragraph (3) of this subsection, paragraphs (1) and (2) of section 240A(d) of the Immigration and Nationality Act shall not apply to an order to show cause issued before April 1, 1997.

"(C) **SPECIAL RULE FOR CERTAIN ALIENS GRANTED TEMPORARY PROTECTION FROM DEPORTATION.**—

"(i) **IN GENERAL.**—For purposes of calculating the period of continuous physical presence under section 244(a) of the Immigration and Nationality Act (as in effect before the title III-A effective date) or section 240A of such Act (as in effect after the title III-A effective date), subparagraph (A) and paragraphs (1) and (2) of section 240A(d) of the Immigration and Nationality Act shall not apply in the case of an alien, regardless of whether the alien is in exclusion or deportation proceedings before the title III-A effective date, who has not been convicted at any time of an aggravated felony (as defined in section 101(a) of the Immigration and Nationality Act) and—

"(I) was not apprehended after December 19, 1990, at the time of entry, and is—

"(aa) a Salvadoran national who first entered the United States on or before September 19, 1990, and who registered for benefits pursuant to the settlement agreement in American Baptist Churches, et al. v. Thornburgh (ABC), 760 F. Supp. 796 (N.D. Cal. 1991) on or before October 31, 1991, or applied for temporary protected status on or before October 31, 1991; or

"(bb) a Guatemalan national who first entered the United States on or before October 1, 1990, and who registered for benefits pursuant to such settlement agreement on or before December 31, 1991;

"(II) is a Guatemalan or Salvadoran national who filed an application for asylum with the Immigration and Naturalization Service on or before April 1, 1990;

"(III) is the spouse or child (as defined in section 101(b)(1) of the Immigration and Nationality Act) of an individual, at the time a decision is rendered to suspend the deportation, or cancel the removal, of such individual, if the individual has been determined to be described in this clause (excluding this subclause and subclause (IV));

"(IV) is the unmarried son or daughter of an alien parent, at the time a decision is rendered to suspend the deportation, or cancel the removal, of such alien parent, if—

"(aa) the alien parent has been determined to be described in this clause (excluding this subclause and subclause (III)); and

"(bb) in the case of a son or daughter who is 21 years of age or older at the time such decision is rendered, the son or daughter entered the United States on or before October 1, 1990; or

"(V) is an alien who entered the United States on or before December 31, 1990, who filed an application for asylum on or before December 31, 1991, and who, at the time of filing such application, was a national of the Soviet Union, Russia, any republic of the former Soviet Union, Latvia, Estonia, Lithuania, Poland, Czechoslovakia, Romania, Hungary, Bulgaria, Albania, East Germany, Yugoslavia, or any state of the former Yugoslavia.

"(ii) **LIMITATION ON JUDICIAL REVIEW.**—A determination by the Attorney General as to whether an alien satisfies the requirements of this clause (i) is final and shall not be subject to review by any court. Nothing in the preceding sentence shall be construed as limiting the application of section 242(a)(2)(B) of the Immigration and Nationality Act (as in effect after the title III-A effective date) to other eligibility determinations pertaining to discretionary relief under this Act."

(2) **CONFORMING AMENDMENT.**—Subsection (c) of section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104-208; division C; 110 Stat. 3009-625) is amended by striking the subsection designation and the subsection heading and inserting the following:

"(c) **TRANSITION FOR CERTAIN ALIENS.**—"

(b) **SPECIAL RULE FOR CANCELLATION OF REMOVAL.**—Section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104-208; 110 Stat. 3009-625) is amended by adding at the end the following:

"(f) **SPECIAL RULE FOR CANCELLATION OF REMOVAL.**—

"(1) **IN GENERAL.**—Subject to the provisions of the Immigration and Nationality Act (as in effect after the title III-A effective date), other than subsections (b)(1), (d)(1), and (e) of section 240A of such Act (but including section 242(a)(2)(B) of such Act), the Attorney General may, under section 240A of such Act, cancel removal of, and adjust to the status of an alien lawfully admitted for permanent residence, an alien who is inadmissible or deportable from the United States, if the alien applies for such relief, the alien is described in subsection (c)(5)(C)(i) of this section, and—

"(A) the alien—

"(i) is not inadmissible or deportable under paragraph (2) or (3) of section 212(a) or paragraph (2), (3), or (4) of section 237(a) of the Immigration and Nationality Act and is not an alien described in section 241(b)(3)(B)(i) of such Act;

"(ii) has been physically present in the United States for a continuous period of not less than 7 years immediately preceding the date of such application;

"(iii) has been a person of good moral character during such period; and

"(iv) establishes that removal would result in extreme hardship to the alien or to the alien's spouse, parent, or child, who is a citizen of the United States or an alien lawfully admitted for permanent residence; or

"(B) the alien—

"(i) is inadmissible or deportable under section 212(a)(2), 237(a)(2) (other than 237(a)(2)(A)(iii)), or 237(a)(3) of the Immigration and Nationality Act;

"(ii) is not an alien described in section 241(b)(3)(B)(i) or 101(a)(43) of such Act;

"(iii) has been physically present in the United States for a continuous period of not less than 10 years immediately following the commission of an act, or the assumption of a status, constituting a ground for removal;

"(iv) has been a person of good moral character during such period; and

"(v) establishes that removal would result in exceptional and extremely unusual hardship to the alien or to the alien's spouse, parent, or child, who is a citizen of the United States or an alien lawfully admitted for permanent residence.

"(2) TREATMENT OF CERTAIN BREAKS IN PRESENCE.—Section 240A(d)(2) shall apply for purposes of calculating any period of continuous physical presence under this subsection, except that the reference to subsection (b)(1) in such section shall be considered to be a reference to paragraph (1) of this section."

(c) MOTIONS TO REOPEN DEPORTATION OR REMOVAL PROCEEDINGS.—Section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104-208; 110 Stat. 3009-625), as amended by subsection (b), is further amended by adding at the end the following:

"(g) MOTIONS TO REOPEN DEPORTATION OR REMOVAL PROCEEDINGS.—Notwithstanding any limitation imposed by law on motions to reopen removal or deportation proceedings (except limitations premised on an alien's conviction of an aggravated felony (as defined in section 101(a) of the Immigration and Nationality Act)), any alien who has become eligible for cancellation of removal or suspension of deportation as a result of the amendments made by section 203 of the Nicaraguan Adjustment and Central American Relief Act may file one motion to reopen removal or deportation proceedings to apply for cancellation of removal or suspension of deportation. The Attorney General shall designate a specific time period in which all such motions to reopen are required to be filed. The period shall begin not later than 60 days after the date of the enactment of the Nicaraguan Adjustment and Central American Relief Act and shall extend for a period not to exceed 240 days."

(d) TEMPORARY REDUCTION IN DIVERSITY VISAS.—

(1) Beginning in fiscal year 1999, subject to paragraph (2), the number of visas available for a fiscal year under section 201(e) of the Immigration and Nationality Act shall be reduced by 5,000 from the number of visas available under that section for such fiscal year.

(2) In no case shall the reduction under paragraph (1) for a fiscal year exceed the amount by which—

(A) one-half of the total number of individuals described in subclauses (I), (II), (III), and (IV) of section 309(c)(5)(C) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 who have adjusted their status to that of aliens lawfully admitted for permanent residence under the Nicaraguan Adjustment and Central American Relief Act as of the end of the previous fiscal year exceeds—

(B) the total of the reductions in available visas under this subsection for all previous fiscal years.

(e) TEMPORARY REDUCTION IN OTHER WORKERS' VISAS.—

(1) Beginning in the fiscal year following the fiscal year in which a visa has been made available under section 203(b)(3)(A)(iii) of the Immigration and Nationality Act for all aliens who are the beneficiary of a petition approved under section 204 of such Act as of the date of the enactment of this Act for classification under section 203(b)(3)(A)(iii) of such Act, subject to paragraph (2), visas available under section 203(b)(3)(A)(iii) of that Act shall be reduced by 5,000 from the number of visas otherwise available under that section for such fiscal year.

(2) In no case shall the reduction under paragraph (1) for a fiscal year exceed the amount by which—

(A) the number computed under subsection (d)(2)(A), exceeds—

(B) the total of the reductions in available visas under this subsection for all previous fiscal years.

(f) EFFECTIVE DATE.—The amendments made by this section to the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 shall take effect as if included in the enactment of such Act.

SEC. 204. LIMITATION ON CANCELLATIONS OF REMOVAL AND SUSPENSIONS OF DEPORTATION. (a) ANNUAL LIMITATION.—Section 240A(e) of the Immigration and Nationality Act (8 U.S.C. 1229b(e)) is amended to read as follows:

"(e) ANNUAL LIMITATION.—

"(1) AGGREGATE LIMITATION.—Subject to paragraphs (2) and (3), the Attorney General may not cancel the removal and adjust the status under this section, nor suspend the deportation and adjust the status under section 244(a) (as in effect before the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996), of a total of more than 4,000 aliens in any fiscal year. The previous sentence shall apply regardless of when an alien applied for such cancellation and adjustment, or such suspension and adjustment, and whether such an alien had previously applied for suspension of deportation under such section 244(a). The numerical limitation under this paragraph shall apply to the aggregate number of decisions in any fiscal year to cancel the removal (and adjust the status) of an alien, or suspend the deportation (and adjust the status) of an alien, under this section or such section 244(a).

"(2) FISCAL YEAR 1997.—For fiscal year 1997, paragraph (1) shall only apply to decisions to cancel the removal of an alien, or suspend the deportation of an alien, made after April 1, 1997. Notwithstanding any other provision of law, the Attorney General may cancel the removal or suspend the deportation, in addition to the normal allotment for fiscal year 1998, of a number of aliens equal to 4,000 less the number of such cancellations of removal and suspensions of deportation granted in fiscal year 1997 after April 1, 1997.

"(3) EXCEPTION FOR CERTAIN ALIENS.—Paragraph (1) shall not apply to the following:

"(A) Aliens described in section 309(c)(5)(C)(i) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (as amended by the Nicaraguan Adjustment and Central American Relief Act).

"(B) Aliens in deportation proceedings prior to April 1, 1997, who applied for suspension of deportation under section 244(a)(3) (as in effect before the date of the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996)."

(b) CANCELLATION OF REMOVAL AND ADJUSTMENT OF STATUS FOR CERTAIN NONPERMANENT RESIDENTS.—Section 240A(b) of the Immigration and Nationality Act (8 U.S.C. 1229b(b)) is amended in each of paragraphs (1) and (2) by striking "may cancel removal in the case of an alien" and inserting "may cancel removal of, and adjust to the status of an alien lawfully admitted for permanent residence, an alien".

(c) RECORDATION OF DATE.—Section 240A(b)(3) of the Immigration and Nationality Act (8 U.S.C. 1229b(b)(3)) is amended to read as follows:

"(3) RECORDATION OF DATE.—With respect to aliens who the Attorney General adjusts to the status of an alien lawfully admitted for permanent residence under paragraph (1) or (2), the Attorney General shall record the alien's lawful admission for permanent residence as of the date of the Attorney General's cancellation of removal under paragraph (1) or (2)."

(d) APRIL 1 EFFECTIVE DATE FOR AGGREGATE LIMITATION.—Section 309(c)(7) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104-208; division C; 110 Stat. 3009-627) is amended to read as follows:

"(7) LIMITATION ON SUSPENSION OF DEPORTATION.—After April 1, 1997, the Attorney General may not suspend the deportation and adjust the status under section 244 of the Immigration and Nationality Act (as in effect before the title III-A effective date) of any alien in any fiscal year, except in accordance with section 240A(e) of such Act. The previous sentence shall apply regardless of when an alien applied for such suspension and adjustment."

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104-208; 110 Stat. 3009-546).

This division may be cited as the "District of Columbia Appropriations Act, 1998".

DIVISION B—DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1998

The following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1998, and for other purposes, to be effective as if it had been enacted into law as the regular appropriations Act, namely:

#### TITLE I—DEPARTMENT OF JUSTICE

##### GENERAL ADMINISTRATION

##### SALARIES AND EXPENSES

For expenses necessary for the administration of the Department of Justice, \$76,199,000, of which not to exceed \$3,317,000 is for the Facilities Program 2000, to remain available until expended: Provided, That not to exceed 43 permanent positions and 44 full-time equivalent workyears and \$7,860,000 shall be expended for the Department Leadership Program exclusive of augmentation that occurred in these offices in fiscal year 1997: Provided further, That not to exceed 41 permanent positions and 48 full-time equivalent workyears and \$4,660,000 shall be expended for the Offices of Legislative Affairs and Public Affairs: Provided further, That the latter two aforementioned offices shall not be augmented by personnel details, temporary transfers of personnel on either a reimbursable or non-reimbursable basis or any other type of formal or informal transfer or reimbursement of personnel or funds on either a temporary or long-term basis.

##### COUNTERTERRORISM FUND

For necessary expenses, as determined by the Attorney General, \$20,000,000 to remain available until expended, to reimburse any Department of Justice organization for (1) the costs incurred in reestablishing the operational capability of an office or facility which has been damaged or destroyed as a result of any domestic or international terrorist incident, (2) the costs of providing support to counter, investigate or prosecute domestic or international terrorism, including payment of rewards in connection with these activities, and (3) the costs of

conducting a terrorism threat assessment of Federal agencies and their facilities: Provided, That funds provided under this heading shall be available only after the Attorney General notifies the Committees on Appropriations of the House of Representatives and the Senate in accordance with section 605 of this Act.

In addition, for necessary expenses, as determined by the Attorney General, \$32,700,000, to remain available until expended, to reimburse departments and agencies of the Federal Government for any costs incurred in connection with—

(1) counterterrorism technology research and development;

(2) providing training and related equipment for chemical, biological, nuclear, and cyber attack prevention and response capabilities to State and local law enforcement agencies; and

(3) providing bomb training and response capabilities to State and local law enforcement agencies.

#### ADMINISTRATIVE REVIEW AND APPEALS

For expenses necessary for the administration of pardon and clemency petitions and immigration related activities, \$70,007,000.

#### VIOLENT CRIME REDUCTION PROGRAMS, ADMINISTRATIVE REVIEW AND APPEALS

For activities authorized by section 130005 of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322), as amended, \$59,251,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund.

#### OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, \$33,211,000; including not to exceed \$10,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General; and for the acquisition, lease, maintenance, and operation of motor vehicles, without regard to the general purchase price limitation for the current fiscal year: Provided, That up to one-tenth of one percent of the Department of Justice's allocation from the Violent Crime Reduction Trust Fund grant programs may be transferred at the discretion of the Attorney General to this account for the audit or other review of such grant programs, as authorized by section 130005 of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322).

#### UNITED STATES PAROLE COMMISSION

##### SALARIES AND EXPENSES

For necessary expenses of the United States Parole Commission as authorized by law, \$5,009,000.

#### LEGAL ACTIVITIES

##### SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For expenses, necessary for the legal activities of the Department of Justice, not otherwise provided for, including not to exceed \$20,000 for expenses of collecting evidence, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General; and rent of private or Government-owned space in the District of Columbia; \$444,200,000; of which not to exceed \$10,000,000 for litigation support contracts shall remain available until expended: Provided, That of the funds available in this appropriation, not to exceed \$17,525,000 shall remain available until expended for office automation systems for the legal divisions covered by this appropriation, and for the United States Attorneys, the Antitrust Division, and offices funded through "Salaries and Expenses", General Administration: Provided further, That of the total amount ap-

propriated, not to exceed \$1,000 shall be available to the United States National Central Bureau, INTERPOL, for official reception and representation expenses: Provided further, That, of the funds appropriated under this heading, such funds as may be necessary for the orderly termination of the Ounce of Prevention Council.

In addition, for reimbursement of expenses of the Department of Justice associated with processing cases under the National Childhood Vaccine Injury Act of 1986, as amended, not to exceed \$4,028,000, to be appropriated from the Vaccine Injury Compensation Trust Fund.

#### VIOLENT CRIME REDUCTION PROGRAMS, GENERAL LEGAL ACTIVITIES

For the expeditious deportation of denied asylum applicants, as authorized by section 130005 of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322), as amended, \$7,969,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund.

#### SALARIES AND EXPENSES, ANTITRUST DIVISION

For expenses necessary for the enforcement of antitrust and kindred laws, \$75,495,000: Provided, That notwithstanding any other provision of law, not to exceed \$70,000,000 of offsetting collections derived from fees collected for premerger notification filings under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (15 U.S.C. 18(a)) shall be retained and used for necessary expenses in this appropriation, and shall remain available until expended: Provided further, That the sum herein appropriated from the General Fund shall be reduced as such offsetting collections are received during fiscal year 1998, so as to result in a final fiscal year 1998 appropriation from the General Fund estimated at not more than \$5,495,000: Provided further, That any fees received in excess of \$70,000,000 in fiscal year 1998, shall remain available until expended, but shall not be available for obligation until October 1, 1998.

#### SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For necessary expenses of the Office of the United States Attorneys, including intergovernmental and cooperative agreements, \$972,460,000; of which not to exceed \$2,500,000 shall be available until September 30, 1999, for (1) training personnel in debt collection, (2) locating debtors and their property, (3) paying the net costs of selling property, and (4) tracking debts owed to the United States Government: Provided, That of the total amount appropriated, not to exceed \$8,000 shall be available for official reception and representation expenses: Provided further, That not to exceed \$10,000,000 of those funds available for automated litigation support contracts shall remain available until expended: Provided further, That not to exceed \$1,200,000 for the design, development, and implementation of an information systems strategy for D.C. Superior Court shall remain available until expended: Provided further, That not to exceed \$2,500,000 for the operation of the National Advocacy Center shall remain available until expended: Provided further, That not to exceed \$2,000,000 shall remain available until expended for the expansion of existing Violent Crime Task Forces in United States Attorneys Offices into demonstration projects, including intergovernmental, inter-local, cooperative, and task-force agreements, however denominated, and contracts with State and local prosecutorial and law enforcement agencies engaged in the investigation and prosecution of violent crimes, including bank robbery and carjacking, and drug trafficking: Provided further, That, in addition to reimbursable full-time equivalent workyears available to the Office of the United States Attorneys, not to exceed 8,948 positions and 9,113 full-time equivalent workyears shall be sup-

ported from the funds appropriated in this Act for the United States Attorneys.

#### VIOLENT CRIME REDUCTION PROGRAMS, UNITED STATES ATTORNEYS

For activities authorized by sections 40114, 130005, 190001(b), 190001(d) and 250005 of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322), as amended, and section 815 of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104-132), \$62,828,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund.

#### UNITED STATES TRUSTEE SYSTEM FUND

For necessary expenses of the United States Trustee Program, as authorized by 28 U.S.C. 589a(a), \$114,248,000, to remain available until expended and to be derived from the United States Trustee System Fund: Provided, That, notwithstanding any other provision of law, deposits to the Fund shall be available in such amounts as may be necessary to pay refunds due depositors: Provided further, That, notwithstanding any other provision of law, \$114,248,000 of offsetting collections derived from fees collected pursuant to 28 U.S.C. 589a(b) shall be retained and used for necessary expenses in this appropriation and remain available until expended: Provided further, That the sum herein appropriated from the Fund shall be reduced as such offsetting collections are received during fiscal year 1998, so as to result in a final fiscal year 1998 appropriation from the Fund estimated at \$0: Provided further, That any such fees collected in excess of \$114,248,000 in fiscal year 1998 shall remain available until expended but shall not be available for obligation until October 1, 1998.

#### SALARIES AND EXPENSES, FOREIGN CLAIMS SETTLEMENT COMMISSION

For expenses necessary to carry out the activities of the Foreign Claims Settlement Commission, including services as authorized by 5 U.S.C. 3109, \$1,226,000.

#### SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

For necessary expenses of the United States Marshals Service; including the acquisition, lease, maintenance, and operation of vehicles and aircraft, and the purchase of passenger motor vehicles for police-type use, without regard to the general purchase price limitation for the current fiscal year, \$467,833,000, as authorized by 28 U.S.C. 561(i); of which not to exceed \$6,000 shall be available for official reception and representation expenses; and of which not to exceed \$4,000,000 for development, implementation, maintenance and support, and training for an automated prisoner information system, and not to exceed \$2,200,000 to support the Justice Prisoner and Alien Transportation System, shall remain available until expended: Provided, That, for fiscal year 1998 and thereafter, the service of maintaining and transporting State, local, or territorial prisoners shall be considered a specialized or technical service for purposes of 31 U.S.C. 6505, and any prisoners so transported shall be considered persons (transported for other than commercial purposes) whose presence is associated with the performance of a governmental function for purposes of 49 U.S.C. 40102.

#### VIOLENT CRIME REDUCTION PROGRAMS, UNITED STATES MARSHALS SERVICE

For activities authorized by section 190001(b) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322), as amended, \$25,553,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund.

#### FEDERAL PRISONER DETENTION

For expenses, related to United States prisoners in the custody of the United States Marshals Service as authorized in 18 U.S.C. 4013,

but not including expenses otherwise provided for in appropriations available to the Attorney General, \$405,262,000, as authorized by 28 U.S.C. 561(t), to remain available until expended.

#### FEES AND EXPENSES OF WITNESSES

For expenses, mileage, compensation, and per diems of witnesses, for expenses of contracts for the procurement and supervision of expert witnesses, for private counsel expenses, and for per diems in lieu of subsistence, as authorized by law, including advances, \$75,000,000, to remain available until expended; of which not to exceed \$4,750,000 may be made available for planning, construction, renovations, maintenance, remodeling, and repair of buildings, and the purchase of equipment incident thereto, for protected witness safesites; of which not to exceed \$1,000,000 may be made available for the purchase and maintenance of armored vehicles for transportation of protected witnesses; and of which not to exceed \$4,000,000 may be made available for the purchase, installation and maintenance of a secure, automated information network to store and retrieve the identities and locations of protected witnesses.

#### SALARIES AND EXPENSES, COMMUNITY RELATIONS SERVICE

For necessary expenses of the Community Relations Service, established by title X of the Civil Rights Act of 1964, \$5,319,000 and, in addition, up to \$2,000,000 of funds made available to the Department of Justice in this Act may be transferred by the Attorney General to this account: Provided, That notwithstanding any other provision of law, upon a determination by the Attorney General that emergent circumstances require additional funding for conflict prevention and resolution activities of the Community Relations Service, the Attorney General may transfer such amounts to the Community Relations Service, from available appropriations for the current fiscal year for the Department of Justice, as may be necessary to respond to such circumstances: Provided further, That any transfer pursuant to the previous proviso shall be treated as a reprogramming under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

#### ASSETS FORFEITURE FUND

For expenses authorized by 28 U.S.C. 524(c)(1)(A)(ii), (B), (F), and (G), as amended, \$23,000,000, to be derived from the Department of Justice Assets Forfeiture Fund.

#### RADIATION EXPOSURE COMPENSATION

##### ADMINISTRATIVE EXPENSES

For necessary administrative expenses in accordance with the Radiation Exposure Compensation Act, \$2,000,000.

##### PAYMENT TO RADIATION EXPOSURE COMPENSATION TRUST FUND

For payments to the Radiation Exposure Compensation Trust Fund, \$4,381,000.

#### INTERAGENCY LAW ENFORCEMENT

##### INTERAGENCY CRIME AND DRUG ENFORCEMENT

For necessary expenses for the detection, investigation, and prosecution of individuals involved in organized crime drug trafficking not otherwise provided for, to include intergovernmental agreements with State and local law enforcement agencies engaged in the investigation and prosecution of individuals involved in organized crime drug trafficking, \$294,967,000, of which \$50,000,000 shall remain available until expended: Provided, That any amounts obligated from appropriations under this heading may be used under authorities available to the organizations reimbursed from this appropriation: Provided further, That any unobligated balances remaining available at the end of the fiscal year shall revert to the Attorney General for reallocation among participating organiza-

tions in succeeding fiscal years, subject to the reprogramming procedures described in section 605 of this Act.

#### FEDERAL BUREAU OF INVESTIGATION

##### SALARIES AND EXPENSES

For necessary expenses of the Federal Bureau of Investigation for detection, investigation, and prosecution of crimes against the United States; including purchase for police-type use of not to exceed 3,094 passenger motor vehicles, of which 2,270 will be for replacement only, without regard to the general purchase price limitation for the current fiscal year, and hire of passenger motor vehicles; acquisition, lease, maintenance, and operation of aircraft; and not to exceed \$70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General, \$2,750,921,000; of which not to exceed \$50,000,000 for automated data processing and telecommunications and technical investigative equipment and not to exceed \$1,000,000 for undercover operations shall remain available until September 30, 1999; of which not less than \$221,050,000 shall be for counterterrorism investigations, foreign counterintelligence, and other activities related to our national security; of which not to exceed \$98,400,000 shall remain available until expended; of which not to exceed \$10,000,000 is authorized to be made available for making advances for expenses arising out of contractual or reimbursable agreements with State and local law enforcement agencies while engaged in cooperative activities related to violent crime, terrorism, organized crime, and drug investigations; and of which \$1,500,000 shall be available to maintain an independent program office dedicated solely to the relocation of the Criminal Justice Information Services Division and the automation of fingerprint identification services: Provided, That not to exceed \$45,000 shall be available for official reception and representation expenses: Provided further, That no funds in this Act may be used to provide ballistics imaging equipment to any State or local authority which has obtained similar equipment through a Federal grant or subsidy unless the State or local authority agrees to return that equipment or to repay that grant or subsidy to the Federal Government.

##### VIOLENT CRIME REDUCTION PROGRAMS

For activities authorized by the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322) as amended ("the 1994 Act"), and the Antiterrorism and Effective Death Penalty Act of 1996 ("the Antiterrorism Act"), \$179,121,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund; of which \$102,127,000 shall be for activities authorized by section 190001(c) of the 1994 Act and section 811 of the Antiterrorism Act; \$57,994,000 shall be for activities authorized by section 190001(b) of the 1994 Act; \$4,000,000 shall be for training and investigative assistance authorized by section 210501 of the 1994 Act; \$9,500,000 shall be for grants to States, as authorized by section 811(b) of the Antiterrorism Act; and \$5,500,000 shall be for establishing DNA quality-assurance and proficiency-testing standards, establishing an index to facilitate law enforcement exchange of DNA identification information, and related activities authorized by section 210501 of the 1994 Act.

##### CONSTRUCTION

For necessary expenses to construct or acquire buildings and sites by purchase, or as otherwise authorized by law (including equipment for such buildings); conversion and extension of federally-owned buildings; and preliminary planning and design of projects; \$44,506,000, to remain available until expended.

#### DRUG ENFORCEMENT ADMINISTRATION

##### SALARIES AND EXPENSES

For necessary expenses of the Drug Enforcement Administration, including not to exceed \$70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General; expenses for conducting drug education and training programs, including travel and related expenses for participants in such programs and the distribution of items of token value that promote the goals of such programs; purchase of not to exceed 1,602 passenger motor vehicles, of which 1,410 will be for replacement only, for police-type use without regard to the general purchase price limitation for the current fiscal year; and acquisition, lease, maintenance, and operation of aircraft; \$723,841,000, of which not to exceed \$1,800,000 for research and \$15,000,000 for transfer to the Drug Diversion Control Fee Account for operating expenses shall remain available until expended, and of which not to exceed \$4,000,000 for purchase of evidence and payments for information, not to exceed \$10,000,000 for contracting for automated data processing and telecommunications equipment, and not to exceed \$2,000,000 for laboratory equipment, \$4,000,000 for technical equipment, and \$2,000,000 for aircraft replacement retrofit and parts, shall remain available until September 30, 1999; and of which not to exceed \$50,000 shall be available for official reception and representation expenses.

##### VIOLENT CRIME REDUCTION PROGRAMS

For activities authorized by sections 180104 and 190001(b) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322), as amended, and section 814 of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104-132), \$403,537,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund.

##### CONSTRUCTION

For necessary expenses to construct or acquire buildings and sites by purchase, or as otherwise authorized by law (including equipment for such buildings); conversion and extension of federally-owned buildings; and preliminary planning and design of projects; \$8,000,000, to remain available until expended.

#### IMMIGRATION AND NATURALIZATION SERVICE

##### SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, including not to exceed \$50,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General; purchase for police type use (not to exceed 2,904, of which 1,711 are for replacement only), without regard to the general purchase price limitation for the current fiscal year, and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; research related to immigration enforcement; and for the care and housing of Federal detainees held in the joint Immigration and Naturalization Service and United States Marshals Service's Buffalo Detention Facility; \$1,658,886,000 of which not to exceed \$400,000 for research shall remain available until expended; of which not to exceed \$10,000,000 shall be available for costs associated with the training program for basic officer training, and \$5,000,000 is for payments or advances arising out of contractual or reimbursable agreements with State and local law enforcement agencies while engaged in cooperative activities related to immigration; and of which not to exceed \$5,000,000 is to fund or reimburse

other Federal agencies for the costs associated with the care, maintenance, and repatriation of smuggled illegal aliens: Provided, That none of the funds available to the Immigration and Naturalization Service shall be available to pay any employee overtime pay in an amount in excess of \$30,000 during the calendar year beginning January 1, 1998: Provided further, That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: Provided further, That not to exceed \$5,000 shall be available for official reception and representation expenses: Provided further, That none of the funds provided in this or any other Act shall be used for the continued operation of the San Clemente and Temecula checkpoints unless the checkpoints are open and traffic is being checked on a continuous 24-hour basis: Provided further, That not to exceed 43 permanent positions and 43 full-time equivalent workyears and \$4,167,000 shall be expended for the Office of Legislative Affairs and Public Affairs: Provided further, That the latter two aforementioned offices shall not be augmented by personnel details, temporary transfers of personnel on either a reimbursable or non-reimbursable basis or any other type of formal or informal transfer or reimbursement of personnel or funds on either a temporary or long-term basis: Provided further, That beginning seven calendar days after the enactment of this Act and for each fiscal year thereafter, none of the funds appropriated or otherwise made available to the Immigration and Naturalization Service may be used by the INS to accept, for the purpose of conducting criminal background checks on applications for any benefit under the Immigration and Nationality Act, any FD-258 fingerprint card which has been prepared by or received from any individual or entity other than an office of the Immigration and Naturalization Service with the following exceptions—(1) State and local law enforcement agencies and (2) United States consular offices at United States embassies and consulates abroad under the jurisdiction of the Department of State or United States military offices under the jurisdiction of the Department of Defense authorized to perform fingerprinting services to prepare FD-258 fingerprint cards for applicants residing abroad applying for immigration benefits: Provided further, That agencies may collect and retain a fee for fingerprinting services: Provided further, That, during fiscal year 1998 and each fiscal year thereafter, none of the funds appropriated or otherwise made available to the Immigration and Naturalization Service shall be used to complete adjudication of an application for naturalization unless the Immigration and Naturalization Service has received confirmation from the Federal Bureau of Investigation that a full criminal background check has been completed, except for those exempted by regulation as of January 1, 1997: Provided further, That the number of positions filled through non-career appointment at the Immigration and Naturalization Service, for which funding is provided in this Act or is otherwise made available to the Immigration and Naturalization Service, shall not exceed four permanent positions and four full-time equivalent workyears after July 1, 1998: Provided further, That notwithstanding any other provision of law, during fiscal year 1998, the Attorney General is authorized and directed to impose disciplinary action, including termination of employment, pursuant to policies and procedures applicable to employees of the Federal Bureau of Investigation, for any employee of the Immigration and Naturalization Service who violates policies and procedures set forth by the Department of Justice relative to the granting of citizenship or who willfully deceives the Congress or Department Leadership on any matter.

#### VIOLENT CRIME REDUCTION PROGRAMS

For activities authorized by sections 130002, 130005, 130006, 130007, and 190001(b) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322), as amended, and section 813 of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104-132), \$607,206,000, to remain available until expended, which will be derived from the Violent Crime Reduction Trust Fund.

#### CONSTRUCTION

For planning, construction, renovation, equipping, and maintenance of buildings and facilities necessary for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, not otherwise provided for, \$75,959,000, to remain available until expended.

#### FEDERAL PRISON SYSTEM

##### SALARIES AND EXPENSES

For expenses necessary for the administration, operation, and maintenance of Federal penal and correctional institutions, including purchase (not to exceed 834, of which 599 are for replacement only) and hire of law enforcement and passenger motor vehicles, and for the provision of technical assistance and advice on corrections related issues to foreign governments; \$2,823,642,000: Provided, That the Attorney General may transfer to the Health Resources and Services Administration such amounts as may be necessary for direct expenditures by that Administration for medical relief for inmates of Federal penal and correctional institutions: Provided further, That the Director of the Federal Prison System (FPS), where necessary, may enter into contracts with a fiscal agent/fiscal intermediary claims processor to determine the amounts payable to persons who, on behalf of the FPS, furnish health services to individuals committed to the custody of the FPS: Provided further, That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: Provided further, That not to exceed \$6,000 shall be available for official reception and representation expenses: Provided further, That not to exceed \$90,000,000 for the activation of new facilities shall remain available until September 30, 1999: Provided further, That of the amounts provided for Contract Confinement, not to exceed \$20,000,000 shall remain available until expended to make payments in advance for grants, contracts and reimbursable agreements, and other expenses authorized by section 501(c) of the Refugee Education Assistance Act of 1980, as amended, for the care and security in the United States of Cuban and Haitian entrants: Provided further, That notwithstanding section 4(d) of the Service Contract Act of 1965 (41 U.S.C. 353(d)), FPS may enter into contracts and other agreements with private entities for periods of not to exceed 3 years and 7 additional option years for the confinement of Federal prisoners.

#### VIOLENT CRIME REDUCTION PROGRAMS

For substance abuse treatment in Federal prisons as authorized by section 32001(e) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322), as amended, \$26,135,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund.

#### BUILDINGS AND FACILITIES

For planning, acquisition of sites and construction of new facilities; leasing the Oklahoma City Airport Trust Facility; purchase and acquisition of facilities and remodeling, and equipping of such facilities for penal and correctional use, including all necessary expenses incident thereto, by contract or force account; and constructing, remodeling, and equipping necessary buildings and facilities at existing penal and

correctional institutions, including all necessary expenses incident thereto, by contract or force account; \$255,133,000, to remain available until expended, of which not to exceed \$14,074,000 shall be available to construct areas for inmate work programs: Provided, That labor of United States prisoners may be used for work performed under this appropriation: Provided further, That not to exceed 10 percent of the funds appropriated to "Buildings and Facilities" in this Act or any other Act may be transferred to "Salaries and Expenses", Federal Prison System, upon notification by the Attorney General to the Committees on Appropriations of the House of Representatives and the Senate in compliance with provisions set forth in section 605 of this Act: Provided further, That, of the total amount appropriated, not to exceed \$2,300,000 shall be available for the renovation and construction of United States Marshals Service prisoner-holding facilities.

#### FEDERAL PRISON INDUSTRIES, INCORPORATED

The Federal Prison Industries, Incorporated, is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available, and in accord with the law, and to make such contracts and commitments, without regard to fiscal year limitations as provided by section 9104 of title 31, United States Code, as may be necessary in carrying out the program set forth in the budget for the current fiscal year for such corporation, including purchase of (not to exceed five for replacement only) and hire of passenger motor vehicles.

#### LIMITATION ON ADMINISTRATIVE EXPENSES, FEDERAL PRISON INDUSTRIES, INCORPORATED

Not to exceed \$3,266,000 of the funds of the corporation shall be available for its administrative expenses, and for services as authorized by 5 U.S.C. 3109, to be computed on an accrual basis to be determined in accordance with the corporation's current prescribed accounting system, and such amounts shall be exclusive of depreciation, payment of claims, and expenditures which the said accounting system requires to be capitalized or charged to cost of commodities acquired or produced, including selling and shipping expenses, and expenses in connection with acquisition, construction, operation, maintenance, improvement, protection, or disposition of facilities and other property belonging to the corporation or in which it has an interest.

#### OFFICE OF JUSTICE PROGRAMS

##### JUSTICE ASSISTANCE

For grants, contracts, cooperative agreements, and other assistance authorized by title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, and the Missing Children's Assistance Act, as amended, including salaries and expenses in connection therewith, and with the Victims of Crime Act of 1984, as amended, and sections 819 and 821 of the Antiterrorism and Effective Death Penalty Act of 1996, \$173,600,000, to remain available until expended, as authorized by section 1001 of title I of the Omnibus Crime Control and Safe Streets Act, as amended by Public Law 102-534 (106 Stat. 3524); of which \$25,000,000 is for the National Sexual Offender Registry.

##### STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

For grants, contracts, cooperative agreements, and other assistance authorized by part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, for State and Local Narcotics Control and Justice Assistance Improvements, notwithstanding the provisions of section 511 of said Act, \$512,500,000, to remain available until expended, as authorized by section 1001 of title I of said Act, as amended by Public Law 102-534 (106 Stat. 3524), of which \$46,500,000 shall be available to carry out the provisions of chapter A of subpart 2 of part E of title I of said Act, for discretionary grants under

the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs, of which \$2,097,000 shall be available to the Executive Office of United States Attorneys to support the National District Attorneys Association's participation in legal education training at the National Advocacy Center.

**VIOLENT CRIME REDUCTION PROGRAMS, STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE**

For assistance (including amounts for administrative costs for management and administration, which amounts shall be transferred to and merged with the "Justice Assistance" account) authorized by the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322), as amended ("the 1994 Act"); the Omnibus Crime Control and Safe Streets Act of 1968, as amended ("the 1968 Act"); and the Victims of Child Abuse Act of 1990, as amended ("the 1990 Act"); \$2,383,400,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund; of which \$523,000,000 shall be for Local Law Enforcement Block Grants, pursuant to H.R. 728 as passed by the House of Representatives on February 14, 1995, except that for purposes of this Act, the Commonwealth of Puerto Rico shall be considered a "unit of local government" as well as a "State", for the purposes set forth in paragraphs (A), (B), (D), (F), and (I) of section 101(a)(2) of H.R. 728 and for establishing crime prevention programs involving cooperation between community residents and law enforcement personnel in order to control, detect, or investigate crime or the prosecution of criminals: Provided, That no funds provided under this heading may be used as matching funds for any other Federal grant program: Provided further, That \$20,000,000 of this amount shall be for Boys and Girls Clubs in public housing facilities and other areas in cooperation with State and local law enforcement: Provided further, That funds may also be used to defray the costs of indemnification insurance for law enforcement officers; of which \$45,000,000 shall be for grants to upgrade criminal records, as authorized by section 106(b) of the Brady Handgun Violence Prevention Act of 1993, as amended, and section 4(b) of the National Child Protection Act of 1993; of which \$34,500,000 shall be available as authorized by section 1001 of title I of the 1968 Act, to carry out the provisions of subpart 1, part E of title I of the 1968 Act notwithstanding section 511 of said Act, for the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs; of which \$420,000,000 shall be for the State Criminal Alien Assistance Program, as authorized by section 242(j) of the Immigration and Nationality Act, as amended; of which \$720,500,000 shall be for Violent Offender Incarceration and Truth in Sentencing Incentive Grants pursuant to subtitle A of title II of the 1994 Act, of which \$165,000,000 shall be available for payments to States for incarceration of criminal aliens, and of which \$25,000,000 shall be available for the Cooperative Agreement Program: Provided further, That funds made available for Violent Offender Incarceration and Truth in Sentencing Incentive Grants to the State of California may, at the discretion of the recipient, be used for payments for the incarceration of criminal aliens; of which \$7,000,000 shall be for the Court Appointed Special Advocate Program, as authorized by section 218 of the 1990 Act; of which \$2,000,000 shall be for Child Abuse Training Programs for Judicial Personnel and Practitioners, as authorized by section 224 of the 1990 Act; of which \$172,000,000 shall be for Grants to Combat Violence Against Women, to States, units of local government, and Indian tribal governments, as authorized by section 1001(a)(18) of the 1968 Act, including \$12,000,000 which shall be used exclusively for the purpose of strength-

ening civil and criminal legal assistance programs for victims of domestic violence: Provided further, That, of these funds, \$7,000,000 shall be provided to the National Institute of Justice for research and evaluation of violence against women and \$853,000 shall be provided to the Office of the United States Attorney for the District of Columbia for domestic violence programs in D.C. Superior Court; of which \$59,000,000 shall be for Grants to Encourage Arrest Policies to States, units of local government, and Indian tribal governments, as authorized by section 1001(a)(19) of the 1968 Act; of which \$25,000,000 shall be for Rural Domestic Violence and Child Abuse Enforcement Assistance Grants, as authorized by section 40295 of the 1994 Act; of which \$2,000,000 shall be for training programs to assist probation and parole officers who work with released sex offenders, as authorized by section 40152(c) of the 1994 Act; of which \$1,000,000 shall be for grants for televised testimony, as authorized by section 1001(a)(7) of the 1968 Act; of which \$2,750,000 shall be for national stalker and domestic violence reduction, as authorized by section 40603 of the 1994 Act; of which \$63,000,000 shall be for grants for residential substance abuse treatment for State prisoners, as authorized by section 1001(a)(17) of the 1968 Act; of which \$12,500,000 shall be for grants to States and units of local government for projects to improve DNA analysis, as authorized by section 1001(a)(22) of the 1968 Act; of which \$900,000 shall be for the Missing Alzheimer's Disease Patient Alert Program, as authorized by section 240001(c) of the 1994 Act; of which \$750,000 shall be for Motor Vehicle Theft Prevention Programs, as authorized by section 220002(h) of the 1994 Act; of which \$30,000,000 shall be for Drug Courts, as authorized by title V of the 1994 Act; of which \$1,000,000 shall be for Law Enforcement Family Support Programs, as authorized by section 1001(a)(21) of the 1968 Act; of which \$2,500,000 shall be for public awareness programs addressing marketing scams aimed at senior citizens, as authorized by section 250005(3) of the 1994 Act: Provided further, That funds made available in fiscal year 1998 under subpart 1 of part E of title I of the 1968 Act may be obligated for programs to assist States in the litigation processing of death penalty Federal habeas corpus petitions and for drug testing initiatives: Provided further, That if a unit of local government uses any of the funds made available under this title to increase the number of law enforcement officers, the unit of local government will achieve a net gain in the number of law enforcement officers who perform nonadministrative public safety service.

**JUVENILE BLOCK GRANTS**

**VIOLENT CRIME REDUCTION PROGRAMS**

For activities of the Juvenile Justice Block Grant Program, \$230,000,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund: Provided, That none of the funds appropriated or otherwise made available by this Act for "Juvenile Block Grants" may be obligated or expended unless such obligation or expenditure is expressly authorized by the enactment of a subsequent Act.

**WEED AND SEED PROGRAM FUND**

For necessary expenses, including salaries and related expenses of the Executive Office for Weed and Seed, to implement "Weed and Seed" program activities, \$33,500,000, for intergovernmental agreements, including grants, cooperative agreements, and contracts, with State and local law enforcement agencies engaged in the investigation and prosecution of violent crimes and drug offenses in "Weed and Seed" designated communities, and for either reimbursements or transfers to appropriation accounts of the Department of Justice and other Federal agencies which shall be specified by the Attor-

ney General to execute the "Weed and Seed" program strategy: Provided, That funds designated by Congress through language for other Department of Justice appropriation accounts for "Weed and Seed" program activities shall be managed and executed by the Attorney General through the Executive Office for Weed and Seed: Provided further, That the Attorney General may direct the use of other Department of Justice funds and personnel in support of "Weed and Seed" program activities only after the Attorney General notifies the Committees on Appropriations of the House of Representatives and the Senate in accordance with section 605 of this Act.

**GAMBLING IMPACT STUDY COMMISSION SALARIES AND EXPENSES**

For necessary expenses of the National Gambling Impact Study Commission, \$1,000,000, to remain available until expended.

**COMMUNITY ORIENTED POLICING SERVICES**

**VIOLENT CRIME REDUCTION PROGRAMS**

For activities authorized by the Violent Crime Control and Law Enforcement Act of 1994, Public Law 103-322 ("the 1994 Act") (including administrative costs), \$1,400,000,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund, for Public Safety and Community Policing Grants pursuant to title I of the 1994 Act: Provided, That not to exceed 186 permanent positions and 186 full-time equivalent workyears and \$20,553,000 shall be expended for program management and administration: Provided further, That of the unobligated balances available in this program, \$103,000,000 shall be used for innovative community policing programs, of which \$38,000,000 shall be used for a law enforcement technology program of which \$10,000,000 is for the North Carolina Criminal Justice Information Network, \$1,000,000 shall be used for police recruitment programs authorized under subtitle H of title III of the 1994 Act, \$34,000,000 shall be used for policing initiatives to combat methamphetamine production and trafficking, \$12,500,000 shall be used for the Community Policing to Combat Domestic Violence Program pursuant to section 1701(d) of part Q of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, \$17,500,000 shall be used for other innovative community policing programs, such as programs to improve the safety of elementary and secondary school children, reduce crime on or near elementary and secondary school grounds and policing initiatives in drug "hot spots".

In addition, for programs of Police Corps education, training and service as set forth in sections 200101-200113 of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322), \$30,000,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund.

**JUVENILE JUSTICE PROGRAMS**

For grants, contracts, cooperative agreements, and other assistance authorized by the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, including salaries and expenses in connection therewith to be transferred to and merged with the appropriations for Justice Assistance, \$201,672,000, to remain available until expended, as authorized by section 299 of part I of title II and section 506 of title V of the Act, as amended by Public Law 102-586, of which (1) notwithstanding any other provision of law, \$5,922,000 shall be available for expenses authorized by part A of title II of the Act, \$96,500,000 shall be available for expenses authorized by part B of title II of the Act, and \$45,250,000 shall be available for expenses authorized by part C of title II of the Act: Provided, That \$26,500,000 of the amounts provided for part B of title II of the Act, as amended, is for the purpose of providing additional formula grants under part B

to States that provide assurances to the Administrator that the State has in effect (or will have in effect no later than one year after date of application) policies and programs, that ensure that juveniles are subject to accountability-based sanctions for every act for which they are adjudicated delinquent; (2) \$12,000,000 shall be available for expenses authorized by section 281 and 282 of part D of title II of the Act for prevention and treatment programs relating to juvenile gangs; (3) \$10,000,000 shall be available for expenses authorized by section 285 of part E of title II of the Act; (4) \$12,000,000 shall be available for expenses authorized by part G of title II of the Act for juvenile mentoring programs; and (5) \$20,000,000 shall be available for expenses authorized by title V of the Act for incentive grants for local delinquency prevention programs: Provided further, That upon the enactment of reauthorization legislation for Juvenile Justice Programs under the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, funding provisions in this Act shall from that date be subject to the provisions of that legislation and any provisions in this Act that are inconsistent with that legislation shall no longer have effect.

In addition, for grants, contracts, cooperative agreements, and other assistance, \$5,000,000 to remain available until expended, for developing, testing, and demonstrating programs designed to reduce drug use among juveniles.

In addition, \$25,000,000 shall be available for grants of \$360,000 to each state and \$6,640,000 shall be available for discretionary grants to states, for programs and activities to enforce state laws prohibiting the sale of alcoholic beverages to minors or the purchase or consumption of alcoholic beverages by minors, prevention and reduction of consumption of alcoholic beverages by minors, and for technical assistance and training.

In addition, for grants, contracts, cooperative agreement, and other assistance authorized by the Victims of Child Abuse Act of 1990, as amended, \$7,000,000, to remain available until expended, as authorized by sections 214B of the Act.

#### PUBLIC SAFETY OFFICERS BENEFITS

To remain available until expended, for payments authorized by part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796), as amended, such sums as are necessary, as authorized by section 6093 of Public Law 100-690 (102 Stat. 4339-4340); and \$2,000,000 for the Federal Law Enforcement Education Assistance Program, as authorized by section 1212 of said Act.

#### GENERAL PROVISIONS—DEPARTMENT OF JUSTICE

SEC. 101. In addition to amounts otherwise made available in this title for official reception and representation expenses, a total of not to exceed \$45,000 from funds appropriated to the Department of Justice in this title shall be available to the Attorney General for official reception and representation expenses in accordance with distributions, procedures, and regulations established by the Attorney General.

SEC. 102. Authorities contained in the Department of Justice Appropriation Authorization Act, Fiscal Year 1980 (Public Law 96-132, 93 Stat. 1040 (1979)), as amended, shall remain in effect until the termination date of this Act or until the effective date of a Department of Justice Appropriation Authorization Act, whichever is earlier.

SEC. 103. None of the funds appropriated by this title shall be available to pay for an abortion, except where the life of the mother would be endangered if the fetus were carried to term, or in the case of rape: Provided, That should this prohibition be declared unconstitutional by a court of competent jurisdiction, this section shall be null and void.

SEC. 104. None of the funds appropriated under this title shall be used to require any person to perform, or facilitate in any way the performance of, any abortion.

SEC. 105. Nothing in the preceding section shall remove the obligation of the Director of the Bureau of Prisons to provide escort services necessary for a female inmate to receive such service outside the Federal facility: Provided, That nothing in this section in any way diminishes the effect of section 104 intended to address the philosophical beliefs of individual employees of the Bureau of Prisons.

SEC. 106. Notwithstanding any other provision of law, not to exceed \$10,000,000 of the funds made available in this Act may be used to establish and publicize a program under which publicly-advertised, extraordinary rewards may be paid, which shall not be subject to spending limitations contained in sections 3059 and 3072 of title 18, United States Code: Provided, That any reward of \$100,000 or more, up to a maximum of \$2,000,000, may not be made without the personal approval of the President or the Attorney General and such approval may not be delegated.

SEC. 107. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of Justice in this Act, including those derived from the Violent Crime Reduction Trust Fund, may be transferred between such appropriations, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 10 percent by any such transfers: Provided, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation except in compliance with the procedures set forth in that section.

SEC. 108. Section 524(c)(8)(E) of title 28, United States Code, is amended by striking "1996" and inserting "1997 and thereafter".

SEC. 109. (a) Section 1402(d) of the Victims of Crime Act of 1984, (42 U.S.C. 10601(d)), is amended—

- (1) by striking paragraph (1); and
- (2) in paragraph (2), by striking "the next" and inserting "The first".

(b) Any unobligated sums hitherto available to the judicial branch pursuant to the paragraph repealed by section (a) shall be deemed to be deposits into the Crime Victims Fund as of the effective date hereof and may be used by the Director of the Office for Victims of Crime to improve services for the benefit of crime victims, including the processing and tracking of criminal monetary penalties and related litigation activities, in the federal criminal justice system.

SEC. 110. The Immigration and Nationality Act of 1952, as amended, is further amended—

- (a) by striking entirely section 286(s);

(b) in section 286(r) by—

- (1) adding ", and amount described in section 245(i)(3)(b)" after "recovered by the Department of Justice" in subsection (2);

(2) replacing "Immigration and Naturalization Service" with "Attorney General" in subsection (3); and

(3) striking subsection (4), and replacing it with, "The amounts required to be refunded from the Fund for fiscal year 1998 and thereafter shall be refunded in accordance with estimates made in the budget request of the President for those fiscal years. Any proposed changes in the amounts designated in such budget requests shall only be made after Congressional reprogramming notification in accordance with the reprogramming guidelines for the applicable fiscal year."; and

(c) in section 245(i)(3)(B), by replacing "Immigration Detention Account established under section 286(s)" with "Breached Bond/Detention Fund established under section 286(r)".

SEC. 111. (a) LIMITATION ON ELIGIBILITY UNDER SECTION 245(i).—Section 245(i)(1) of the Immigration and Nationality Act (8 U.S.C. 1255(i)(1)) is amended by striking "(i)(1)" through "The Attorney General" and inserting the following:

"(i)(1) Notwithstanding the provisions of subsections (a) and (c) of this section, an alien physically present in the United States—

"(A) who—  
"(i) entered the United States without inspection; or

"(ii) is within one of the classes enumerated in subsection (c) of this section; and

"(B) who is the beneficiary of a petition for classification under section 204 that was filed with the Attorney General or the Department of Labor for labor certification pursuant to section 212(a)(5)(i) on or before the date of the enactment of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998;

may apply to the Attorney General for the adjustment of his or her status to that of an alien lawfully admitted for permanent residence. The Attorney General".

(b) REPEAL OF SUNSET FOR SECTION 245(i).—Section 506(c) of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1995 (Public Law 103-317; 108 Stat. 1766) is amended to read as follows:

"(c) The amendment made by subsection (a) shall take effect on October 1, 1994, and shall cease to have effect on October 1, 1997. The amendment made by subsection (b) shall take effect on October 1, 1994".

(c) INAPPLICABILITY OF SECTION 245(c)(2) FOR CERTAIN EMPLOYMENT-BASED IMMIGRANTS.—Section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) is amended—

(1) in subsection (c)(2), by inserting "subject to subsection (k)," after "(2)"; and

(2) by adding at the end the following:

"(k) An alien is eligible to receive an immigrant visa under paragraph (1), (2), or (3) of section 203(b) or, in the case of an alien who is an immigrant described in section 101(a)(27)(C), under section 203(b)(4) pursuant to subsection (a) and notwithstanding subsection (c)(2), if—  
"(1) the alien, on the date of filing an application for adjustment of status, is present in the United States pursuant to a lawful admission;

"(2) the alien, subsequent to such lawful admission has not, for an aggregate period exceeding 180 days—  
"(A) failed to maintain, continuously, a lawful status;

"(B) engaged in unauthorized employment; or

"(C) otherwise violated the terms and conditions of the alien's admission.".

SEC. 112. (a) SHORT TITLE.—This section may be cited as the "Philippine Army, Scouts, and Guerilla Veterans of World War II Naturalization Act of 1997".

(b) IN GENERAL.—Section 405 of the Immigration and Nationality Act of 1990 (8 U.S.C. 1440 note) is amended—

(1) by striking subparagraph (B) of subsection (a)(1) and inserting the following:

"(B) who—

"(i) is listed on the final roster prepared by the Recovered Personnel Division of the United States Army of those who served honorably in an active duty status within the Philippine Army during the World War II occupation and liberation of the Philippines,

"(ii) is listed on the final roster prepared by the Guerilla Affairs Division of the United States Army of those who received recognition as having served honorably in an active duty status within a recognized guerilla unit during the World War II occupation and liberation of the Philippines, or

"(iii) served honorably in an active duty status within the Philippine Scouts or within any other component of the United States Armed Forces in the Far East (other than a component described in clause (i) or (ii)) at any time during the period beginning September 1, 1939, and ending December 31, 1946.";

(2) by adding at the end of subsection (a) the following new paragraph:

"(3)(A) For purposes of the second sentence of section 329(a) and section 329(b)(3) of the Immigration and Nationality Act, the executive department under which a person served shall be—

"(i) in the case of an applicant claiming to have served in the Philippine Army, the United States Department of the Army;

"(ii) in the case of an applicant claiming to have served in a recognized guerilla unit, the United States Department of the Army; or

"(iii) in the case of an applicant claiming to have served in the Philippine Scouts or any other component of the United States Armed Forces in the Far East (other than a component described in clause (i) or (ii)) at any time during the period beginning September 1, 1939, and ending December 31, 1946, the United States executive department (or successor thereto) that exercised supervision over such component.

"(B) An executive department specified in subparagraph (A) may not make a determination under the second sentence of section 329(a) with respect to the service or separation from service of a person described in paragraph (1) except pursuant to a request from the Service.";

(3) by adding at the end of the following new subsection:

"(d) IMPLEMENTATION.—(1) Notwithstanding any other provision of law, for purposes of the naturalization of natives of the Philippines under this section—

"(A) the processing of applications for naturalization, filed in accordance with the provisions of this section, including necessary interviews, shall be conducted in the Philippines by employees of the Service designated pursuant to section 335(b) of the Immigration and Nationality Act; and

"(B) oaths of allegiance for applications for naturalization under this section shall be administered in the Philippines by employees of the Service designated pursuant to section 335(b) of that Act.

"(2) Notwithstanding paragraph (1), applications for naturalization, including necessary interviews, may continue to be processed, and oaths of allegiance may continue to be taken in the United States.".

(c) REPEAL.—Section 113 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1993 (8 U.S.C. 1440 note), is repealed.

(d) EFFECTIVE DATE; TERMINATION DATE.—

(1) APPLICATION TO PENDING APPLICATIONS.—The amendments made by subsection (b) shall apply to applications filed before February 3, 1995.

(2) TERMINATION DATE.—The authority provided by the amendments made by subsection (b) shall expire February 3, 2001.

SEC. 113. Section 101(a)(27)(J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(J)) is amended to read as follows:

"(J) an immigrant who is present in the United States—

"(i) who has been declared dependent on a juvenile court located in the United States or whom such a court has legally committed to, or placed under the custody of, an agency or department of a State and who has been deemed eligible by that court for long-term foster care due to abuse, neglect, or abandonment;

"(ii) for whom it has been determined in administrative or judicial proceedings that it

would not be in the alien's best interest to be returned to the alien's or parent's previous country of nationality or country of last habitual residence; and

"(iii) in whose case the Attorney General expressly consents to the dependency order serving as a precondition to the grant of special immigrant juvenile status;

Except that—

"(I) no juvenile court has jurisdiction to determine the custody status or placement of an alien in the actual or constructive custody of the Attorney General unless the Attorney General specifically consents to such jurisdiction; and

"(II) no natural parent or prior adoptive parent of any alien provided special immigrant status under this subparagraph shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act; or".

SEC. 114. Not to exceed \$200,000 of funds appropriated under section 1304 of title 31, United States Code, shall be available for payment pursuant to the Hearing Officer's Report in United States Court of Federal Claims No. 93-645X (June 3, 1996) (see 35 Fed. Cl. 99 (March 7, 1996)).

SEC. 115. (a) STANDARDS FOR SEX OFFENDER REGISTRATION PROGRAMS.—

(1) IN GENERAL.—Section 170101(a) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071(a)) is amended—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking "with a designated State law enforcement agency"; and

(ii) in subparagraph (B), by striking "with a designated State law enforcement agency";

(B) by striking paragraph (2) and inserting the following:

"(2) DETERMINATION OF SEXUALLY VIOLENT PREDATOR STATUS; WAIVER; ALTERNATIVE MEASURES.—

"(A) IN GENERAL.—A determination of whether a person is a sexually violent predator for purposes of this section shall be made by a court after considering the recommendation of a board composed of experts in the behavior and treatment of sex offenders, victims' rights advocates, and representatives of law enforcement agencies.

"(B) WAIVER.—The Attorney General may waive the requirements of subparagraph (A) if the Attorney General determines that the State has established alternative procedures or legal standards for designating a person as a sexually violent predator.

"(C) ALTERNATIVE MEASURES.—The Attorney General may also approve alternative measures of comparable or greater effectiveness in protecting the public from unusually dangerous or recidivistic sexual offenders in lieu of the specific measures set forth in this section regarding sexually violent predators.";

(C) in paragraph (3)—

(i) in subparagraph (A), by striking "that consists of—" and inserting "in a range of offenses specified by State law which is comparable to or which exceeds the following range of offenses";

(ii) in subparagraph (B), by striking "that consists of" and inserting "in a range of offenses specified by State law which is comparable to or which exceeds the range of offenses encompassed by"; and

(D) by adding at the end of the following:

"(F) The term 'employed, carries on a vocation' includes employment that is full-time or part-time for a period of time exceeding 14 days or for an aggregate period of time exceeding 30 days during any calendar year, whether financially compensated, volunteered, or for the purpose of government or educational benefit.

"(G) The term 'student' means a person who is enrolled on a full-time or part-time basis, in

any public or private educational institution, including any secondary school, trade, or professional institution, or institution of higher education.".

(2) REQUIREMENTS UPON RELEASE, PAROLE, SUPERVISED RELEASE, OR PROBATION.—Section 170101(b) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071(b)) is amended—

(A) in paragraph (1)—

(i) by striking the paragraph designation and heading and inserting the following:

"(1) DUTIES OF RESPONSIBLE OFFICIALS.—";

(ii) in subparagraph (A)—

(I) in the matter preceding clause (i), by striking "or in the case of probation, the court" and inserting "the court, or another responsible officer or official";

(II) in clause (ii), by striking "give" and all that follows before the semicolon and inserting "report the change of address as provided by State law"; and

(III) in clause (iii), by striking "shall register" and all that follows before the semicolon and inserting "shall report the change of address as provided by State law and comply with any registration requirement in the new State of residence, and inform the person that the person must also register in a State where the person is employed, carries on a vocation, or is a student"; and

(iii) in subparagraph (B), by striking "or the court" and inserting "the court, or another responsible officer or official";

(B) by striking paragraph (2) and inserting the following:

"(2) TRANSFER OF INFORMATION TO STATE AND FBI; PARTICIPATION IN NATIONAL SEX OFFENDER REGISTRY.—

"(A) STATE REPORTING.—State procedures shall ensure that the registration information is promptly made available to a law enforcement agency having jurisdiction where the person expects to reside and entered into the appropriate State records or data system. State procedures shall also ensure that conviction data and fingerprints for persons required to register are promptly transmitted to the Federal Bureau of Investigation.

"(B) NATIONAL REPORTING.—A State shall participate in the national database established under section 170102(b) in accordance with guidelines issued by the Attorney General, including transmission of current address information and other information on registrants to the extent provided by the guidelines.";

(C) in paragraph (3)(A)—

(i) in the matter preceding clause (i), by striking "on each" and all that follows through "applies;" and inserting the following: "State procedures shall provide for verification of address at least annually.";

(ii) by striking clauses (i) through (v);

(D) in paragraph (4), by striking "section reported" and all that follows before the period at the end and inserting the following: "section shall be reported by the person in the manner provided by State law. State procedures shall ensure that the updated address information is promptly made available to a law enforcement agency having jurisdiction where the person will reside and entered into the appropriate State records or data system";

(E) in paragraph (5), by striking "shall register" and all that follows before the period at the end and inserting "and who moves to another State, shall report the change of address to the responsible agency in the State the person is leaving, and shall comply with any registration requirement in the new State of residence. The procedures of the State the person is leaving shall ensure that notice is provided promptly to an agency responsible for registration in the new State, if that State requires registration"; and

(F) by adding at the end the following:

"(7) REGISTRATION OF OUT-OF-STATE OFFENDERS, FEDERAL OFFENDERS, PERSONS SENTENCED BY COURTS MARTIAL, AND OFFENDERS CROSSING STATE BORDERS.—As provided in guidelines issued by the Attorney General, each State shall include in its registration program residents who were convicted in another State and shall ensure that procedures are in place to accept registration information from—

"(A) residents who were convicted in another State, convicted of a Federal offense, or sentenced by a court martial; and

"(B) nonresident offenders who have crossed into another State in order to work or attend school."

(3) REGISTRATION OF OFFENDER CROSSING STATE BORDER.—Section 170101 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071) is amended by redesignating subsections (c) through (f) as (d) through (g), respectively, and inserting after subsection (b) the following:

"(c) REGISTRATION OF OFFENDER CROSSING STATE BORDER.—Any person who is required under this section to register in the State in which such person resides shall also register in any State in which the person is employed, carries on a vocation, or is a student."

(4) RELEASE OF INFORMATION.—Section 170101(e)(2) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071(e)(2)), as redesignated by subsection (c) of this section, is amended by striking "The designated" and all that follows through "State agency" and inserting "The State or any agency authorized by the State".

(5) IMMUNITY FOR GOOD FAITH CONDUCT.—Section 170101(f) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071(f)), as redesignated by subsection (c) of this section, is amended by striking ", and State officials" and inserting "and independent contractors acting at the direction of such agencies, and State officials".

(6) FBI REGISTRATION.—(A) Section 170102(a)(2) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14072(a)(2)) is amended by striking "and 'predatory'" and inserting the following: "'predatory', 'employed, or carries on a vocation', and 'student'".

(B) Section 170102(a)(3) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14072(a)(3)) is amended—

(i) in subparagraph (A), by inserting "in a range of offenses specified by State law which is comparable to or exceeds that" before "described";

(ii) by amending subparagraph (B) to read as follows:

"(B) participates in the national database established under subsection (b) of this section in conformity with guidelines issued by the Attorney General."; and

(iii) by amending subparagraph (C) to read as follows:

"(C) provides for verification of address at least annually";

(C) Section 170102(i) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14072(i)) in the matter preceding paragraph (1), is amended by inserting "or pursuant to section 170101(b)(7)" after "subsection (g)".

(7) PAM LYCHNER SEXUAL OFFENDER TRACKING AND IDENTIFICATION ACT OF 1996.—Section 10 of the Pam Lychner Sexual Offender Tracking and Identification Act of 1996 is amended by inserting at the end the following:

"(d) EFFECTIVE DATE.—States shall be allowed the time specified in subsection (b) to establish minimally sufficient sexual offender registration programs for purposes of the amendments made by section 2. Subsections (c) and (k)

of section 170102 of the Violent Crime Control and Law Enforcement Act of 1994, and any requirement to issue related regulations, shall take effect at the conclusion of the time provided under this subsection for the establishment of minimally sufficient sexual offender registration programs."

(8) FEDERAL OFFENDERS AND MILITARY PERSONNEL.—(A) Section 4042 of title 18, United States Code, is amended—

(i) in subsection (a)(5), by striking "subsection (b)" and inserting "subsections (b) and (c)";

(ii) in subsection (b), by striking paragraph (4);

(iii) by redesignating subsection (c) as subsection (d); and

(iv) by inserting after subsection (b) the following:

"(c) NOTICE OF SEX OFFENDER RELEASE.—(1) In the case of a person described in paragraph (4) who is released from prison or sentenced to probation, notice shall be provided to—

"(A) the chief law enforcement officer of the State and of the local jurisdiction in which the person will reside; and

"(B) a State or local agency responsible for the receipt or maintenance of sex offender registration information in the State or local jurisdiction in which the person will reside.

The notice requirements under this subsection do not apply in relation to a person being protected under chapter 224.

"(2) Notice provided under paragraph (1) shall include the information described in subsection (b)(2), the place where the person will reside, and the information that the person shall be subject to a registration requirement as a sex offender. For a person who is released from the custody of the Bureau of Prisons whose expected place of residence following release is known to the Bureau of Prisons, notice shall be provided at least 5 days prior to release by the Director of the Bureau of Prisons. For a person who is sentenced to probation, notice shall be provided promptly by the probation officer responsible for the supervision of the person, or in a manner specified by the Director of the Administrative Office of the United States Courts. Notice concerning a subsequent change of residence by a person described in paragraph (4) during any period of probation, supervised release, or parole shall also be provided to the agencies and officers specified in paragraph (1) by the probation officer responsible for the supervision of the person, or in a manner specified by the Director of the Administrative Office of the United States Courts.

"(3) The Director of the Bureau of Prisons shall inform a person described in paragraph (4) who is released from prison that the person shall be subject to a registration requirement as a sex offender in any State in which the person resides, is employed, carries on a vocation, or is a student (as such terms are defined for purposes of section 170101(a)(3) of the Violent Crime Control and Law Enforcement Act of 1994), and the same information shall be provided to a person described in paragraph (4) who is sentenced to probation by the probation officer responsible for supervision of the person or in a manner specified by the Director of the Administrative Office of the United States Courts.

"(4) A person is described in this paragraph if the person was convicted of any of the following offenses (including such an offense prosecuted pursuant to section 1152 or 1153):

"(A) An offense under section 1201 involving a minor victim.

"(B) An offense under chapter 109A.

"(C) An offense under chapter 110.

"(D) An offense under chapter 117.

"(E) Any other offense designated by the Attorney General as a sexual offense for purposes of this subsection.

"(5) The United States and its agencies, officers, and employees shall be immune from liability based on good faith conduct in carrying out this subsection and subsection (b)."

(B)(i) Section 3563(a) of title 18, United States Code, is amended by striking the matter at the end of paragraph (7) beginning with "The results of a drug test" and all that follows through the end of such paragraph and inserting that matter at the end of section 3563.

(ii) The matter inserted by subparagraph (A) at the end of section 3563 is amended—

(I) by striking "The results of a drug test" and inserting the following:

"(e) RESULTS OF DRUG TESTING.—The results of a drug test"; and

(II) by striking "paragraph (4)" each place it appears and inserting "subsection (a)(5)".

(iii) Section 3563(a) of title 18, United States Code, is amended—

(I) so that paragraphs (6) and (7) appear in numerical order immediately after paragraph (5);

(II) by striking "and" at the end of paragraph (6);

(III) in paragraph (7), by striking "assessments." and inserting "assessments; and"; and

(IV) by inserting immediately after paragraph (7) (as moved by clause (i)) the following new paragraph:

"(8) for a person described in section 4042(c)(4), that the person report the address where the person will reside and any subsequent change of residence to the probation officer responsible for supervision, and that the person register in any State where the person resides, is employed, carries on a vocation, or is a student (as such terms are defined under section 170101(a)(3) of the Violent Crime Control and Law Enforcement Act of 1994)."

(iv) Section 3583(d) of title 18, United States Code, is amended by inserting after the second sentence the following: "The court shall order, as an explicit condition of supervised release for a person described in section 4042(c)(4), that the person report the address where the person will reside and any subsequent change of residence to the probation officer responsible for supervision, and that the person register in any State where the person resides, is employed, carries on a vocation, or is a student (as such terms are defined under section 170101(a)(3) of the Violent Crime Control and Law Enforcement Act of 1994)."

(v) Section 4209(a) of title 18, United States Code, insofar as such section remains in effect with respect to certain individuals, is amended by inserting after the first sentence the following: "In every case, the Commission shall impose as a condition of parole for a person described in section 4042(c)(4), that the parolee report the address where the parolee will reside and any subsequent change of residence to the probation officer responsible for supervision, and that the parolee register in any State where the parolee resides, is employed, carries on a vocation, or is a student (as such terms are defined under section 170101(a)(3) of the Violent Crime Control and Law Enforcement Act of 1994)."

(C)(i) The Secretary of Defense shall specify categories of conduct punishable under the Uniform Code of Military Justice which encompass a range of conduct comparable to that described in section 170101(a)(3)(A) and (B) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071(a)(3)(A) and (B)), and such other conduct as the Secretary deems appropriate for inclusion for purposes of this subparagraph.

(ii) In relation to persons sentenced by a court martial for conduct in the categories specified under clause (i), the Secretary shall prescribe procedures and implement a system to—

(I) provide notice concerning the release from confinement or sentencing of such persons;

(II) inform such persons concerning registration obligations; and

(III) track and ensure compliance with registration requirements by such persons during any period of parole, probation, or other conditional release or supervision related to the offense.

(iii) The procedures and requirements established by the Secretary under this subparagraph shall, to the maximum extent practicable, be consistent with those specified for Federal offenders under the amendments made by subparagraphs (A) and (B).

(iv) If a person within the scope of this subparagraph is confined in a facility under the control of the Bureau of Prisons at the time of release, the Bureau of Prisons shall provide notice of release and inform the person concerning registration obligations under the procedures specified in section 4042(c) of title 18, United States Code.

(9) PROTECTED WITNESS REGISTRATION.—Section 3521(b)(1) of title 18, United States Code, is amended—

(A) by striking "and" at the end of subparagraph (G);

(B) by redesignating subparagraph (H) as subparagraph (I); and

(C) by inserting after subparagraph (G) the following:

"(H) protect the confidentiality of the identity and location of persons subject to registration requirements as convicted offenders under Federal or State law, including prescribing alternative procedures to those otherwise provided by Federal or State law for registration and tracking of such persons; and"

(b) SENSE OF CONGRESS AND REPORT RELATING TO STALKING LAWS.—

(1) SENSE OF CONGRESS.—It is the sense of Congress that each State should have in effect a law that makes it a crime to stalk any individual, especially children, without requiring that such individual be physically harmed or abducted before a stalker is restrained or punished.

(2) REPORT.—The Attorney General shall include in an annual report under section 40610 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14039) information concerning existing or proposed State laws and penalties for stalking crimes against children.

(c) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act, except that—

(1) subparagraphs (A), (B), and (C) of subsection (a)(8) shall take effect 1 year after the date of the enactment of this Act; and

(2) States shall have 3 years from such date of enactment to implement amendments made by this Act which impose new requirements under the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, and the Attorney General may grant an additional 2 years to a State that is making good faith efforts to implement these amendments.

SEC. 116. (a) IN GENERAL.—Section 610(b) of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1993 (8 U.S.C. 1153; Public Law 102-395) is amended—

(1) by striking "300" and inserting "3,000"; and

(2) by striking "five years" and inserting "seven years".

(b) EFFECTIVE DATE.—The amendment made by subsection (a)(2) shall be deemed to have become effective on October 6, 1992.

SEC. 117. For fiscal year 1998, the Attorney General shall provide a magnetometer and not less than one qualified guard at each unsecured entrance to the real property (including offices,

buildings, and related grounds and facilities) that is leased to the United States as a place of employment for Federal employees at 625 Silver, S.W., in Albuquerque, New Mexico for the duration of time that Department of Justice employees are occupants of this building, after which the General Services Administration shall provide the same level of security equipment and personnel at this location until the date on which the new Albuquerque federal building is occupied.

SEC. 118. Section 203(p)(1) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(p)(1)) is amended—

(1) by inserting "(A)" after "(1)"; and

(2) by adding at the end the following new subparagraph:

"(B)(i) The Administrator may exercise the authority under subparagraph (A) with respect to such surplus real and related property needed by the transferee or grantee for—

"(I) law enforcement purposes, as determined by the Attorney General; or

"(II) emergency management response purposes, including fire and rescue services, as determined by the Director of the Federal Emergency Management Agency.

"(ii) The authority provided under this subparagraph shall terminate on December 31, 1999."

SEC. 119. Section 1701(b)(2)(A) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd) is amended to read as follows—

"(A) may not exceed 20 percent of the funds available for grants pursuant to this subsection in any fiscal year."

SEC. 120. Section 212(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(1)) is amended—

(1) in subparagraph (A)(ii), by inserting "except as provided in subparagraph (C)," after "(ii)"; and

(2) by adding at the end the following:

"(C) EXCEPTION FROM IMMUNIZATION REQUIREMENT FOR ADOPTED CHILDREN 10 YEARS OF AGE OR YOUNGER.—Clause (ii) of subparagraph (A) shall not apply to a child who—

"(i) is 10 years of age or younger,

"(ii) is described in section 101(b)(1)(F), and

"(iii) is seeking an immigrant visa as an immediate relative under section 201(b),

if, prior to the admission of the child, an adoptive parent or prospective adoptive parent of the child, who has sponsored the child for admission as an immediate relative, has executed an affidavit stating that the parent is aware of the provisions of subparagraph (A)(ii) and will ensure that, within 30 days of the child's admission, or at the earliest time that is medically appropriate, the child will receive the vaccinations identified in such subparagraph."

SEC. 121. Section 233(d) of the Antiterrorism and Effective Death Penalty Act of 1996 (110 Stat. 1245) is amended by striking "1 year after the date of enactment of this Act" and inserting "October 1, 1999".

SEC. 122. (a) DEFINITIONS.—In this section—

(1) the terms "criminal offense against a victim who is a minor", "sexually violent offense", and "sexually violent predator" have the meanings given those terms in section 170101(a) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071(a));

(2) the term "DNA" means deoxyribonucleic acid; and

(3) the term "sex offender" means an individual who—

(A) has been convicted in Federal court of—

(i) a criminal offense against a victim who is a minor; or

(ii) a sexually violent offense; or

(B) is a sexually violent predator.

(b) REPORT.—From amounts made available to the Department of Justice under this title, not

later than 180 days after the date of enactment of this Act, the Attorney General shall submit to Congress a report, which shall include a plan for the implementation of a requirement that, prior to the release (including probation, parole, or any other supervised release) of any sex offender from Federal custody following a conviction for a criminal offense against a victim who is a minor or a sexually violent offense, the sex offender shall provide a DNA sample to the appropriate law enforcement agency for inclusion in a national law enforcement DNA database.

(c) PLAN REQUIREMENTS.—The plan submitted under subsection (b) shall include recommendations concerning—

(1) a system for—

(A) the collection of DNA samples from any sex offender;

(B) the analysis of the collected samples for DNA and other genetic typing analysis; and

(C) making the DNA and other genetic typing information available for law enforcement purposes only;

(2) guidelines for coordination with existing Federal and State DNA and genetic typing information databases and for Federal cooperation with State and local law in sharing this information;

(3) addressing constitutional, privacy, and related concerns in connection with the mandatory submission of DNA samples; and

(4) procedures and penalties for the prevention of improper disclosure or dissemination of DNA or other genetic typing information.

SEC. 123. (a) Notwithstanding any other provision of law relating to position classification or employee pay or performance, during the 3-year period beginning on the date of enactment of this Act, the Director of the Federal Bureau of Investigation may, with the approval of the Attorney General, establish a personnel management system providing for the compensation and performance management of not more than 3,000 non-Special Agent employees to fill critical scientific, technical, engineering, intelligence analyst, language translator, and medical positions in the Federal Bureau of Investigation.

(b) Except as otherwise provided by law, no employee compensated under any system established under this section may be paid at a rate in excess of the rate payable for a position at level III of the Executive Schedule.

(c) Total payments to employees under any system established under this section shall be subject to the limitation on payments to employees set forth in section 5307 of title 5, United States Code.

(d) Not later than 90 days after the date of enactment of this Act, the Director of the Federal Bureau of Investigation shall submit to the Committees on Appropriations and the Committees on the Judiciary of the House of Representatives and the Senate, the Committee on Government Reform and Oversight of the House of Representatives, and the Committee on Governmental Affairs of the Senate, an operating plan describing the Director's intended use of the authority under this section, and identifying any provisions of title 5, United States Code, being waived for purposes of any personnel management system to be established by the Director under this section.

(e) Any performance management system established under this section shall have not less than 2 levels of performance above a retention standard.

(f) Not later than March 31, 2000, the Director of the Federal Bureau of Investigation shall submit to Congress an evaluation of the performance management system established under this section, which shall include—

(1) a comparison of—

(A) the compensation, benefits, and performance management provisions governing personnel of similar employment classification series in other departments and agencies of the Federal Government; and

(B) the costs, consistent with standards prescribed in Office of Management and Budget Circular A-76, of contracting for any services provided through those departments and agencies; and

(2) if appropriate, a recommendation for legislation to extend the authority under this section.

(g) Notwithstanding any other provision of law, the Secretary of the Treasury shall have the same authority provided to the Office of Personnel Management under section 4703 of title 5, United States Code, to establish, in the discretion of the Secretary, demonstration projects for a period of 3 years, for not to exceed a combined total of 950 employees, to fill critical scientific, technical, engineering, intelligence analyst, language translator, and medical positions in the Bureau of Alcohol, Tobacco and Firearms, the United States Customs Service, and the United States Secret Service.

(h) The authority under this section shall terminate 3 years after the date of enactment of this Act.

SEC. 124. (a) IN GENERAL.—Section 3626 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1)(B)(i), by striking "permits" and inserting "requires"; and

(B) in paragraph (3)—

(i) in subparagraph (A), by striking "no prisoner release order shall be entered unless" and inserting "no court shall enter a prisoner release order unless"; and

(ii) in subparagraph (F)—

(I) by inserting "including a legislator" after "local official"; and

(II) by striking "program" and inserting "prison";

(2) in subsection (b)(3), by striking "current or ongoing" and inserting "current and ongoing";

(3) in subsection (e)—

(A) in paragraph (1), by adding at the end the following: "Mandamus shall lie to remedy any failure to issue a prompt ruling on such a motion.";

(B) in paragraph (2), by striking "Any prospective relief subject to a pending motion shall be automatically stayed" and inserting "Any motion to modify or terminate prospective relief made under subsection (b) shall operate as a stay"; and

(C) by adding at the end the following:

"(3) POSTPONEMENT OF AUTOMATIC STAY.—The court may postpone the effective date of an automatic stay specified in subsection (e)(2)(A) for not more than 60 days for good cause. No postponement shall be permissible because of general congestion of the court's calendar.

"(4) ORDER BLOCKING THE AUTOMATIC STAY.—Any order staying, suspending, delaying, or barring the operation of the automatic stay described in paragraph (2) (other than an order to postpone the effective date of the automatic stay under paragraph (3)) shall be treated as an order refusing to dissolve or modify an injunction and shall be appealable pursuant to section 1292(a)(1) of title 28, United States Code, regardless of how the order is styled or whether the order is termed a preliminary or a final ruling."

(b) EFFECTIVE DATE.—The amendments made by this Act shall take effect upon the date of the enactment of this Act and shall apply to pending cases.

SEC. 125. Section 524(c)(8)(B) of title 28, United States Code, is amended by deleting "1996, and 1997," and inserting "and 1996," in place thereof.

This title may be cited as the "Department of Justice Appropriations Act, 1998".

## TITLE II—DEPARTMENT OF COMMERCE AND RELATED AGENCIES

### TRADE AND INFRASTRUCTURE DEVELOPMENT

#### RELATED AGENCIES

##### OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

###### SALARIES AND EXPENSES

For necessary expenses of the Office of the United States Trade Representative, including the hire of passenger motor vehicles and the employment of experts and consultants as authorized by 5 U.S.C. 3109, \$23,450,000, of which \$2,500,000 shall remain available until expended: Provided, That not to exceed \$98,000 shall be available for official reception and representation expenses: Provided further, That the total number of political appointees on board as of May 1, 1998, shall not exceed 25 positions.

##### INTERNATIONAL TRADE COMMISSION

###### SALARIES AND EXPENSES

For necessary expenses of the International Trade Commission, including hire of passenger motor vehicles, and services as authorized by 5 U.S.C. 3109, and not to exceed \$2,500 for official reception and representation expenses, \$41,200,000 to remain available until expended.

## DEPARTMENT OF COMMERCE

### INTERNATIONAL TRADE ADMINISTRATION

#### OPERATIONS AND ADMINISTRATION

For necessary expenses for international trade activities of the Department of Commerce provided for by law, and engaging in trade promotional activities abroad, including expenses of grants and cooperative agreements for the purpose of promoting exports of United States firms, without regard to 44 U.S.C. 3702 and 3703; full medical coverage for dependent members of immediate families of employees stationed overseas and employees temporarily posted overseas; travel and transportation of employees of the United States and Foreign Commercial Service between two points abroad, without regard to 49 U.S.C. 1517; employment of Americans and aliens by contract for services; rental of space abroad for periods not exceeding ten years, and expenses of alteration, repair, or improvement; purchase or construction of temporary demountable exhibition structures for use abroad; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed \$327,000 for official representation expenses abroad; purchase of passenger motor vehicles for official use abroad, not to exceed \$30,000 per vehicle; obtain insurance on official motor vehicles; and rent tie lines and teletype equipment; \$283,066,000, to remain available until expended: Provided, That of the \$287,866,000 provided for in direct obligations (of which \$283,066,000 is appropriated from the General Fund, and \$4,800,000 is derived from unobligated balances and deobligations from prior years), \$58,986,000 shall be for Trade Development, \$17,340,000 shall be for the Market Access and Compliance, \$28,770,000 shall be for the Import Administration, \$171,070,000 shall be for the United States and Foreign Commercial Service, and \$11,700,000 shall be for Executive Direction and Administration: Provided further, That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities without regard to section 5412 of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 4912); and that for the purpose of this Act, contributions under the provisions of the Mutual Educational and Cultural Exchange Act shall include payment for assessments for services provided as part of these activities.

## EXPORT ADMINISTRATION

### OPERATIONS AND ADMINISTRATION

For necessary expenses for export administration and national security activities of the Department of Commerce, including costs associated with the performance of export administration field activities both domestically and abroad; full medical coverage for dependent members of immediate families of employees stationed overseas; employment of Americans and aliens by contract for services abroad; rental of space abroad for periods not exceeding ten years, and expenses of alteration, repair, or improvement; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed \$15,000 for official representation expenses abroad; awards of compensation to informers under the Export Administration Act of 1979, and as authorized by 22 U.S.C. 401(b); purchase of passenger motor vehicles for official use and motor vehicles for law enforcement use with special requirement vehicles eligible for purchase without regard to any price limitation otherwise established by law; \$43,900,000 to remain available until expended, of which \$1,900,000 shall be for inspections and other activities related to national security: Provided, That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities: Provided further, That payments and contributions collected and accepted for materials or services provided as part of such activities may be retained for use in covering the cost of such activities, and for providing information to the public with respect to the export administration and national security activities of the Department of Commerce and other export control programs of the United States and other governments.

### ECONOMIC DEVELOPMENT ADMINISTRATION

#### ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For grants for economic development assistance as provided by the Public Works and Economic Development Act of 1965, as amended, Public Law 91-304, and such laws that were in effect immediately before September 30, 1982, and for trade adjustment assistance, \$340,000,000: Provided, That none of the funds appropriated or otherwise made available under this heading may be used directly or indirectly for attorneys' or consultants' fees in connection with securing grants and contracts made by the Economic Development Administration: Provided further, That, notwithstanding any other provision of law, the Secretary of Commerce may provide financial assistance for projects to be located on military installations closed or scheduled for closure or realignment to grantees eligible for assistance under the Public Works and Economic Development Act of 1965, as amended, without it being required that the grantee have title or ability to obtain a lease for the property, for the useful life of the project, when in the opinion of the Secretary of Commerce, such financial assistance is necessary for the economic development of the area: Provided further, That the Secretary of Commerce may, as the Secretary considers appropriate, consult with the Secretary of Defense regarding the title to land on military installations closed or scheduled for closure or realignment.

#### SALARIES AND EXPENSES

For necessary expenses of administering the economic development assistance programs as provided for by law, \$21,028,000: Provided, That these funds may be used to monitor projects approved pursuant to title I of the Public Works Employment Act of 1976, as amended, title II of the Trade Act of 1974, as amended, and the Community Emergency Drought Relief Act of 1977.

**MINORITY BUSINESS DEVELOPMENT AGENCY  
MINORITY BUSINESS DEVELOPMENT**

For necessary expenses of the Department of Commerce in fostering, promoting, and developing minority business enterprise, including expenses of grants, contracts, and other agreements with public or private organizations, \$25,000,000.

**ECONOMIC AND INFORMATION INFRASTRUCTURE  
ECONOMIC AND STATISTICAL ANALYSIS  
SALARIES AND EXPENSES**

For necessary expenses, as authorized by law, of economic and statistical analysis programs of the Department of Commerce, \$47,499,000, to remain available until September 30, 1999.

**ECONOMICS AND STATISTICS ADMINISTRATION  
REVOLVING FUND**

The Secretary of Commerce is authorized to disseminate economic and statistical data products as authorized by sections 1, 2, and 4 of Public Law 91-412 (15 U.S.C. 1525-1527) and, notwithstanding section 5412 of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 4912), charge fees necessary to recover the full costs incurred in their production. Notwithstanding 31 U.S.C. 3302, receipts received from these data dissemination activities shall be credited to this account, to be available for carrying out these purposes without further appropriation.

**BUREAU OF THE CENSUS  
SALARIES AND EXPENSES**

For expenses necessary for collecting, compiling, analyzing, preparing, and publishing statistics, provided for by law, \$137,278,000.

**PERIODIC CENSUSES AND PROGRAMS**

For expenses necessary to conduct the decennial census, \$388,074,000, to remain available until expended.

In addition, for expenses to collect and publish statistics for other periodic censuses and programs provided for by law, \$165,926,000, to remain available until expended.

**NATIONAL TELECOMMUNICATIONS AND  
INFORMATION ADMINISTRATION  
SALARIES AND EXPENSES**

For necessary expenses, as provided for by law, of the National Telecommunications and Information Administration (NTIA), \$16,550,000, to remain available until expended: Provided, That notwithstanding 31 U.S.C. 1535(d), the Secretary of Commerce shall charge Federal agencies for costs incurred in spectrum management, analysis, and operations, and related services and such fees shall be retained and used as offsetting collections for costs of such spectrum services, to remain available until expended: Provided further, That hereafter, notwithstanding any other provision of law, NTIA shall not authorize spectrum use or provide any spectrum functions pursuant to the NTIA Organization Act, 47 U.S.C. §§ 902-903, to any Federal entity without reimbursement as required by NTIA for such spectrum management costs, and Federal entities withholding payment of such cost shall not use spectrum: Provided further, That the Secretary of Commerce is authorized to retain and use as offsetting collections all funds transferred, or previously transferred, from other Government agencies for all costs incurred in telecommunications research, engineering, and related activities by the Institute for Telecommunication Sciences of the NTIA, in furtherance of its assigned functions under this paragraph, and such funds received from other Government agencies shall remain available until expended.

**PUBLIC TELECOMMUNICATIONS FACILITIES,  
PLANNING AND CONSTRUCTION**

For grants authorized by section 392 of the Communications Act of 1934, as amended,

\$21,000,000, to remain available until expended as authorized by section 391 of the Act, as amended: Provided, That not to exceed \$1,500,000 shall be available for program administration as authorized by section 391 of the Act: Provided further, That notwithstanding the provisions of section 391 of the Act, the prior year unobligated balances may be made available for grants for projects for which applications have been submitted and approved during any fiscal year: Provided further, That, notwithstanding any other provision of law, the Pan-Pacific Education and Communication Experiments by Satellite (PEACESAT) Program is eligible to compete for Public Broadcasting Facilities, Planning and Construction funds.

**INFORMATION INFRASTRUCTURE GRANTS**

For grants authorized by section 392 of the Communications Act of 1934, as amended, \$20,000,000, to remain available until expended as authorized by section 391 of the Act, as amended: Provided, That not to exceed \$3,000,000 shall be available for program administration and other support activities as authorized by section 391: Provided further, That of the funds appropriated herein, not to exceed 5 percent may be available for telecommunications research activities for projects related directly to the development of a national information infrastructure: Provided further, That, notwithstanding the requirements of section 392(a) and 392(c) of the Act, these funds may be used for the planning and construction of telecommunications networks for the provision of educational, cultural, health care, public information, public safety, or other social services.

**PATENT AND TRADEMARK OFFICE  
SALARIES AND EXPENSES**

For necessary expenses of the Patent and Trademark Office provided for by law, including defense of suits instituted against the Commissioner of Patents and Trademarks, \$691,000,000, to remain available until expended: Provided, That of this amount, \$664,000,000 shall be derived from offsetting collections assessed and collected pursuant to 15 U.S.C. 1113 and 35 U.S.C. 41 and 376 and shall be retained and used for necessary expenses in this appropriation: Provided further, That the sum herein appropriated from the General Fund shall be reduced as such offsetting collections are received during fiscal year 1998 from the General Fund estimated at \$0: Provided further, That during fiscal year 1998, should the total amount of offsetting fee collections be less than \$664,000,000, the total amounts available to the Patent and Trademark Office shall be reduced accordingly: Provided further, That any fees received in excess of \$664,000,000 in fiscal year 1998 shall remain available until expended, but shall not be available for obligation until October 1, 1998: Provided further, That the remaining \$27,000,000 shall be derived from deposits in the Patent and Trademark Office Fee Surcharge Fund as authorized by law and shall remain available until expended.

**SCIENCE AND TECHNOLOGY  
TECHNOLOGY ADMINISTRATION  
UNDER SECRETARY FOR TECHNOLOGY/OFFICE OF  
TECHNOLOGY POLICY  
SALARIES AND EXPENSES**

For necessary expenses for the Under Secretary for Technology/Office of Technology Policy, \$8,500,000, of which not to exceed \$1,600,000 shall remain available until September 30, 1999.

**NATIONAL INSTITUTE OF STANDARDS AND  
TECHNOLOGY  
SCIENTIFIC AND TECHNICAL RESEARCH AND  
SERVICES**

For necessary expenses of the National Institute of Standards and Technology, \$276,852,000, to remain available until expended, of which

not to exceed \$3,800,000 shall be used to fund a cooperative agreement with Texas Tech University for wind research; and of which not to exceed \$5,000,000 of the amount above \$268,000,000 shall be used to fund a cooperative agreement with Montana State University for a research program on green buildings; and of which not to exceed \$1,625,000 may be transferred to the "Working Capital Fund".

**INDUSTRIAL TECHNOLOGY SERVICES**

For necessary expenses of the Manufacturing Extension Partnership of the National Institute of Standards and Technology, \$113,500,000, to remain available until expended, of which not to exceed \$300,000 may be transferred to the "Working Capital Fund": Provided, That notwithstanding the time limitations imposed by 15 U.S.C. 278k(c) (1) and (5) on the duration of Federal financial assistance that may be awarded by the Secretary of Commerce to Regional Centers for the transfer of Manufacturing Technology ("Centers"), such Federal financial assistance for a Center may continue beyond six years and may be renewed for additional periods, not to exceed one year, at a rate not to exceed one-third of the Center's total annual costs, subject before any such renewal to a positive evaluation of the Center and to a finding by the Secretary of Commerce that continuation of Federal funding to the Center is in the best interest of the Regional Centers for the transfer of Manufacturing Technology Program: Provided further, That the Center's most recent performance evaluation is positive, and the Center has submitted a reapplication which has successfully passed merit review.

In addition, for necessary expenses of the Advanced Technology Program of the National Institute of Standards and Technology, \$192,500,000, to remain available until expended, of which not to exceed \$82,000,000 shall be available for the award of new grants, and of which not to exceed \$500,000 may be transferred to the "Working Capital Fund".

**CONSTRUCTION OF RESEARCH FACILITIES**

For construction of new research facilities, including architectural and engineering design, and for renovation of existing facilities, not otherwise provided for the National Institute of Standards and Technology, as authorized by 15 U.S.C. 278c-278e, \$95,000,000, to remain available until expended: Provided, That of the amounts provided under this heading, \$78,308,000 shall be available for obligation and expenditure only after submission of a plan for the expenditure of these funds, in accordance with section 605 of this Act.

**NATIONAL OCEANIC AND ATMOSPHERIC  
ADMINISTRATION**

**OPERATIONS, RESEARCH, AND FACILITIES  
(INCLUDING TRANSFERS OF FUNDS)**

For necessary expenses of activities authorized by law for the National Oceanic and Atmospheric Administration, including maintenance, operation, and hire of aircraft; not to exceed 283 commissioned officers on the active list as of September 30, 1998; grants, contracts, or other payments to nonprofit organizations for the purposes of conducting activities pursuant to cooperative agreements; and relocation of facilities as authorized by 33 U.S.C. 883i; \$1,500,350,000, to remain available until expended: Provided, That, notwithstanding 31 U.S.C. 3302 but consistent with other existing law, fees shall be assessed, collected, and credited to this appropriation as offsetting collections to be available until expended, to recover the costs of administering aeronautical charting programs: Provided further, That the sum herein appropriated from the General Fund shall be reduced as such additional fees are received during fiscal year 1998, so as to result in a final General Fund appropriation estimated at not

more than \$1,497,350,000: Provided further, That any such additional fees received in excess of \$3,000,000 in fiscal year 1998 shall not be available for obligation until October 1, 1998: Provided further, That fees and donations received by the National Ocean Service for the management of the national marine sanctuaries may be retained and used for the salaries and expenses associated with those activities, notwithstanding 31 U.S.C. 3302: Provided further, That in addition, \$62,381,000 shall be derived by transfer from the fund entitled "Promote and Develop Fishery Products and Research Pertaining to American Fisheries": Provided further, That grants to States pursuant to sections 306 and 306A of the Coastal Zone Management Act of 1972, as amended, shall not exceed \$2,000,000: Provided further, That unexpended balances in the accounts "Construction" and "Fleet Modernization, Shipbuilding and Conversion" shall be transferred to and merged with this account, to remain available until expended for the purposes for which the funds were originally appropriated.

**PROCUREMENT, ACQUISITION AND CONSTRUCTION  
(INCLUDING TRANSFERS OF FUNDS)**

For procurement, acquisition and construction of capital assets, including alteration and modification costs, of the National Oceanic and Atmospheric Administration, \$489,609,000, to remain available until expended: Provided, That not to exceed \$116,910,000 is available for the advanced weather interactive processing system, and may be available for obligation and expenditure only pursuant to a certification by the Secretary of Commerce that the total cost to complete the acquisition and deployment of the advanced weather interactive processing system and NOAA Port system, including program management, operations and maintenance costs through deployment will not exceed \$188,700,000: Provided further, That unexpended balances of amounts previously made available in the "Operations, Research, and Facilities" account and the "Construction" account for activities funded under this heading may be transferred to and merged with this account, to remain available until expended for the purposes for which the funds were originally appropriated.

**COASTAL ZONE MANAGEMENT FUND**

Of amounts collected pursuant to section 308 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456a), not to exceed \$7,800,000, for purposes set forth in sections 308(b)(2)(A), 308(b)(2)(B)(v), and 315(e) of such Act.

**FISHERMEN'S CONTINGENCY FUND**

For carrying out the provisions of title IV of Public Law 95-372, not to exceed \$953,000, to be derived from receipts collected pursuant to that Act, to remain available until expended.

**FOREIGN FISHING OBSERVER FUND**

For expenses necessary to carry out the provisions of the Atlantic Tunas Convention Act of 1975, as amended (Public Law 96-339), the Magnuson-Stevens Fishery Conservation and Management Act of 1976, as amended (Public Law 100-627), and the American Fisheries Promotion Act (Public Law 96-561), to be derived from the fees imposed under the foreign fishery observer program authorized by these Acts, not to exceed \$189,000, to remain available until expended.

**FISHERIES FINANCE PROGRAM ACCOUNT**

For the cost of direct loans, \$338,000, as authorized by the Merchant Marine Act of 1936, as amended: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: Provided further, That none of the funds made available under this heading may be used for direct loans for any new fishing vessel that will increase the harvesting capacity in any United States fishery.

**GENERAL ADMINISTRATION  
SALARIES AND EXPENSES**

For expenses necessary for the general administration of the Department of Commerce provided for by law, including not to exceed \$3,000 for official entertainment, \$27,490,000.

**OFFICE OF INSPECTOR GENERAL**

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App. 1-11 as amended by Public Law 100-504), \$20,140,000.

**NATIONAL OCEANIC AND ATMOSPHERIC  
ADMINISTRATION**

**OPERATIONS, RESEARCH, AND FACILITIES  
(RESCISSION)**

Of the unobligated balances available under this heading, \$20,000,000 are rescinded.

**UNITED STATES TRAVEL AND TOURISM  
ADMINISTRATION**

**SALARIES AND EXPENSES  
(RESCISSION)**

Of the unobligated balances available under this heading, \$3,000,000 are rescinded.

**GENERAL PROVISIONS—DEPARTMENT OF  
COMMERCE**

SEC. 201. During the current fiscal year, applicable appropriations and funds made available to the Department of Commerce by this Act shall be available for the activities specified in the Act of October 26, 1949 (15 U.S.C. 1514), to the extent and in the manner prescribed by the Act, and, notwithstanding 31 U.S.C. 3324, may be used for advanced payments not otherwise authorized only upon the certification of officials designated by the Secretary of Commerce that such payments are in the public interest.

SEC. 202. During the current fiscal year, appropriations made available to the Department of Commerce by this Act for salaries and expenses shall be available for hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344; services as authorized by 5 U.S.C. 3109; and uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902).

SEC. 203. None of the funds made available by this Act may be used to support the hurricane reconnaissance aircraft and activities that are under the control of the United States Air Force or the United States Air Force Reserve.

SEC. 204. None of the funds provided in this or any previous Act, or hereinafter made available to the Department of Commerce, shall be available to reimburse the Unemployment Trust Fund or any other fund or account of the Treasury to pay for any expenses paid before October 1, 1992, as authorized by section 8501 of title 5, United States Code, for services performed after April 20, 1990, by individuals appointed to temporary positions within the Bureau of the Census for purposes relating to the 1990 decennial census of population.

SEC. 205. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of Commerce in this Act may be transferred between such appropriations, but no such appropriation shall be increased by more than 10 percent by any such transfers: Provided, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 206. (a) Should legislation be enacted to dismantle or reorganize the Department of Commerce or any portion thereof, the Secretary of Commerce, no later than 90 days thereafter, shall submit to the Committees on Appropriations of the House and the Senate a plan for transferring funds provided in this Act to the appropriate successor organizations: Provided,

That the plan shall include a proposal for transferring or rescinding funds appropriated herein for agencies or programs terminated under such legislation: Provided further, That such plan shall be transmitted in accordance with section 605 of this Act.

(b) The Secretary of Commerce or the appropriate head of any successor organization(s) may use any available funds to carry out legislation dismantling or reorganizing the Department of Commerce or any portion thereof to cover the costs of actions relating to the abolishment, reorganization, or transfer of functions and any related personnel action, including voluntary separation incentives if authorized by such legislation: Provided, That the authority to transfer funds between appropriations accounts that may be necessary to carry out this section is provided in addition to authorities included under section 205 of this Act: Provided further, That use of funds to carry out this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 207. Any costs incurred by a Department or agency funded under this title resulting from personnel actions taken in response to funding reductions included in this title or from actions taken for the care and protection of loan collateral or grant property shall be absorbed within the total budgetary resources available to such Department or agency: Provided, That the authority to transfer funds between appropriations accounts as may be necessary to carry out this section is provided in addition to authorities included elsewhere in this Act: Provided further, That use of funds to carry out this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 208. The Secretary of Commerce may award contracts for hydrographic, geodetic, and photogrammetric surveying and mapping services in accordance with title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541 et seq.).

SEC. 209. (a) Congress finds that—

(1) it is the constitutional duty of the Congress to ensure that the decennial enumeration of the population is conducted in a manner consistent with the Constitution and laws of the United States;

(2) the sole constitutional purpose of the decennial enumeration of the population is the apportionment of Representatives in Congress among the several States;

(3) section 2 of the 14th article of amendment to the Constitution clearly states that Representatives are to be "apportioned among the several States according to their respective numbers, counting the whole number of persons in each State";

(4) article 1, section 2, clause 3 of the Constitution clearly requires an "actual Enumeration" of the population, and section 195 of title 13, United States Code, clearly provides "Except for the determination of population for purposes of apportionment of Representatives in Congress among the several States, the Secretary shall, if he considers it feasible, authorize the use of the statistical method known as 'sampling' in carrying out the provisions of this title.;"

(5) the decennial enumeration of the population is one of the most critical constitutional functions our Federal Government performs;

(6) it is essential that the decennial enumeration of the population be as accurate as possible, consistent with the Constitution and laws of the United States;

(7) the use of statistical sampling or statistical adjustment in conjunction with an actual enumeration to carry out the census with respect to

any segment of the population poses the risk of an inaccurate, invalid, and unconstitutional census;

(8) the decennial enumeration of the population is a complex and vast undertaking, and if such enumeration is conducted in a manner that does not comply with the requirements of the Constitution or laws of the United States, it would be impracticable for the States to obtain, and the courts of the United States to provide, meaningful relief after such enumeration has been conducted; and

(9) Congress is committed to providing the level of funding that is required to perform the entire range of constitutional census activities, with a particular emphasis on accurately enumerating all individuals who have historically been undercounted, and toward this end, Congress expects—

(A) aggressive and innovative promotion and outreach campaigns in hard-to-count communities;

(B) the hiring of enumerators from within those communities;

(C) continued cooperation with local government on address list development; and

(D) maximized census employment opportunities for individuals seeking to make the transition from welfare to work.

(b) Any person aggrieved by the use of any statistical method in violation of the Constitution or any provision of law (other than this Act), in connection with the 2000 or any later decennial census, to determine the population for purposes of the apportionment or redistricting of members in Congress, may in a civil action obtain declaratory, injunctive, and any other appropriate relief against the use of such method.

(c) For purposes of this section—

(1) the use of any statistical method as part of a dress rehearsal or other simulation of a census in preparation for the use of such method, in a decennial census, to determine the population for purposes of the apportionment or redistricting of members in Congress shall be considered the use of such method in connection with that census; and

(2) the report ordered by title VIII of Public Law 105-18 and the Census 2000 Operational Plan shall be deemed to constitute final agency action regarding the use of statistical methods in the 2000 decennial census, thus making the question of their use in such census sufficiently concrete and final to now be reviewable in a judicial proceeding.

(d) For purposes of this section, an aggrieved person (described in subsection (b)) includes—

(1) any resident of a State whose congressional representation or district could be changed as a result of the use of a statistical method challenged in the civil action;

(2) any Representative or Senator in Congress; and

(3) either House of Congress.

(e)(1) Any action brought under this section shall be heard and determined by a district court of three judges in accordance with section 2284 of title 28, United States Code. The chief judge of the United States court of appeals for each circuit shall, to the extent practicable and consistent with the avoidance of unnecessary delay, consolidate, for all purposes, in one district court within that circuit, all actions pending in that circuit under this section. Any party to an action under this section shall be precluded from seeking any consolidation of that action other than is provided in this paragraph. In selecting the district court in which to consolidate such actions, the chief judge shall consider the convenience of the parties and witnesses and efficient conduct of such actions. Any final order or injunction of a United States district court that is issued pursuant to an ac-

tion brought under this section shall be reviewable by appeal directly to the Supreme Court of the United States. Any such appeal shall be taken by a notice of appeal filed within 10 days after such order is entered; and the jurisdictional statement shall be filed within 30 days after such order is entered. No stay of an order issued pursuant to an action brought under this section may be issued by a single Justice of the Supreme Court.

(2) It shall be the duty of a United States district court hearing an action brought under this section and the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any such matter.

(f) Any agency or entity within the executive branch having authority with respect to the carrying out of a decennial census may in a civil action obtain a declaratory judgment respecting whether or not the use of a statistical method, in connection with such census, to determine the population for the purposes of the apportionment or redistricting of members in Congress is forbidden by the Constitution and laws of the United States.

(g) The Speaker of the House of Representatives or the Speaker's designee or designees may commence or join in a civil action, for and on behalf of the House of Representatives, under any applicable law, to prevent the use of any statistical method, in connection with the decennial census, to determine the population for purposes of the apportionment or redistricting of members in Congress. It shall be the duty of the Office of the General Counsel of the House of Representatives to represent the House in such civil action, according to the directions of the Speaker. The Office of the General Counsel of the House of Representatives may employ the services of outside counsel and other experts for this purpose.

(h) For purposes of this section and section 210—

(1) the term "statistical method" means an activity related to the design, planning, testing, or implementation of the use of representative sampling, or any other statistical procedure, including statistical adjustment, to add or subtract counts to or from the enumeration of the population as a result of statistical inference; and

(2) the term "census" or "decennial census" means a decennial enumeration of the population.

(i) Nothing in this Act shall be construed to authorize the use of any statistical method, in connection with a decennial census, for the apportionment or redistricting of members in Congress.

(j) Sufficient funds appropriated under this Act or under any other Act for purposes of the 2000 decennial census shall be used by the Bureau of the Census to plan, test, and become prepared to implement a 2000 decennial census, without using statistical methods, which shall result in the percentage of the total population actually enumerated being as close to 100 percent as possible. In both the 2000 decennial census, and any dress rehearsal or other simulation made in preparation for the 2000 decennial census, the number of persons enumerated without using statistical methods must be publicly available for all levels of census geography which are being released by the Bureau of the Census for (1) all data releases before January 1, 2001, (2) the data contained in the 2000 decennial census Public Law 94-171 data file released for use in redistricting, (3) the Summary Tabulation File One (STF-1) for the 2000 decennial census, and (4) the official populations of the States transmitted from the Secretary of Commerce through the President to the Clerk of the House used to reapportion the districts of the House among the States as a result of the 2000 decennial census.

Simultaneously with any other release or reporting of any of the information described in the preceding sentence through other means, such information shall be made available to the public on the Internet. These files of the Bureau of the Census shall be available concurrently to the release of the original files to the same recipients, on identical media, and at a comparable price. They shall contain the number of persons enumerated without using statistical methods and any additions or subtractions thereto. These files shall be based on data gathered and generated by the Bureau of the Census in its official capacity.

(k) This section shall apply in fiscal year 1998 and succeeding fiscal years.

SEC. 210. (a) There shall be established a board to be known as the Census Monitoring Board (hereinafter in this section referred to as the "Board").

(b) The function of the Board shall be to observe and monitor all aspects of the preparation and implementation of the 2000 decennial census (including all dress rehearsals and other simulations of a census in preparation therefor).

(c)(1) The Board shall be composed of 8 members as follows:

(A) 2 individuals appointed by the majority leader of the Senate.

(B) 2 individuals appointed by the Speaker of the House of Representatives.

(C) 4 individuals appointed by the President, of whom—

(i) 1 shall be on the recommendation of the minority leader of the Senate; and

(ii) 1 shall be on the recommendation of the minority leader of the House of Representatives.

All members of the Board shall be appointed within 60 days after the date of enactment of this Act. A vacancy in the Board shall be filled in the manner in which the original appointment was made.

(2) Members shall not be entitled to any pay by reason of their service on the Board, but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(3) The Board shall have—

(A) a co-chairman who shall be appointed jointly by the members under subsection (c)(1)(A) and (B), and

(B) a co-chairman who shall be appointed jointly by the members under subsection (c)(1)(C).

(4) The Board shall meet at the call of either co-chairman.

(5) A quorum shall consist of 5 members of the Board.

(6) The Board may promulgate any regulations necessary to carry out its duties.

(d)(1) The Board shall have—

(A) an executive director who shall be appointed jointly by the members under subsection (c)(1)(A) and (B), and

(B) an executive director who shall be appointed jointly by the members under subsection (c)(1)(C).

each of whom shall be paid at a rate not to exceed level IV of the Executive Schedule.

(2) Subject to such rules as the Board may prescribe, each executive director—

(A) may appoint and fix the pay of such additional personnel as that executive director considers appropriate; and

(B) may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of pay payable for grade GS-15 of the General Schedule.

Such rules shall include provisions to ensure an equitable division or sharing of resources, as appropriate, between the respective staff of the Board.

(3) The staff of the Board shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title (relating to classification and General Schedule pay rates).

(4) The Administrator of the General Services Administration, in coordination with the Secretary of Commerce, shall locate suitable office space for the operation of the Board in the W. Edwards Deming Building in Suitland, Maryland. The facilities shall serve as the headquarters of the Board and shall include all necessary equipment and incidentals required for the proper functioning of the Board.

(e)(1) For the purpose of carrying out its duties, the Board may hold such hearings (at the call of either co-chairman) and undertake such other activities as the Board determines to be necessary to carry out its duties.

(2) The Board may authorize any member of the Board or of its staff to take any action which the Board is authorized to take by this subsection.

(3)(A) Each co-chairman of the Board and any members of the staff who may be designated by the Board under this paragraph shall be granted access to any data, files, information, or other matters maintained by the Bureau of the Census (or received by it in the course of conducting a decennial census of population) which they may request, subject to such regulations as the Board may prescribe in consultation with the Secretary of Commerce.

(B) The Board or the co-chairmen acting jointly may secure directly from any other Federal agency, including the White House, all information that the Board considers necessary to enable the Board to carry out its duties. Upon request of the Board or both co-chairmen, the head of that agency (or other person duly designated for purposes of this paragraph) shall furnish that information to the Board.

(4) The Board shall prescribe regulations under which any member of the Board or of its staff, and any person whose services are procured under subsection (d)(2)(B), who gains access to any information or other matter pursuant to this subsection shall, to the extent that any provisions of section 9 or 214 of title 13, United States Code, would apply with respect to such matter in the case of an employee of the Department of Commerce, be subject to such provisions.

(5) Upon the request of the Board, the head of any Federal agency is authorized to detail, without reimbursement, any of the personnel of such agency to the Board to assist the Board in carrying out its duties. Any such detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

(6) Upon the request of the Board, the head of a Federal agency shall provide such technical assistance to the Board as the Board determines to be necessary to carry out its duties.

(7) The Board may use the United States mails in the same manner and under the same conditions as Federal agencies and shall, for purposes of the frank, be considered a commission of Congress as described in section 3215 of title 39, United States Code.

(8) Upon request of the Board, the Administrator of General Services shall provide to the Board on a reimbursable basis such administrative support services as the Board may request.

(9) For purposes of costs relating to printing and binding, including the cost of personnel detailed from the Government Printing Office, the Board shall be deemed to be a committee of the Congress.

(f)(1) The Board shall transmit to the Con-

(A) interim reports, with the first such report due by April 1, 1998;

(B) additional reports, the first of which shall be due by February 1, 1999, the second of which shall be due by April 1, 1999, and subsequent reports at least semiannually thereafter;

(C) a final report which shall be due by September 1, 2001; and

(D) any other reports which the Board considers appropriate.

The final report shall contain a detailed statement of the findings and conclusions of the Board with respect to the matters described in subsection (b).

(2) In addition to any matter otherwise required under this subsection, each such report shall address, with respect to the period covered by such report—

(A) the degree to which efforts of the Bureau of the Census to prepare to conduct the 2000 census—

(i) shall achieve maximum possible accuracy at every level of geography;

(ii) shall be taken by means of an enumeration process designed to count every individual possible; and

(iii) shall be free from political bias and arbitrary decisions; and

(B) efforts by the Bureau of the Census intended to contribute to enumeration improvement, specifically, in connection with—

(i) computer modernization and the appropriate use of automation;

(ii) address list development;

(iii) outreach and promotion efforts at all levels designed to maximize response rates, especially among groups that have historically been undercounted (including measures undertaken in conjunction with local government and community and other groups);

(iv) establishment and operation of field offices; and

(v) efforts relating to the recruitment, hiring, and training of enumerators.

(3) Any data or other information obtained by the Board under this section shall be made available to any committee or subcommittee of Congress of appropriate jurisdiction upon request of the chairman or ranking minority member of such committee or subcommittee. No such committee or subcommittee, or member thereof, shall disclose any information obtained under this paragraph which is submitted to it on a confidential basis unless the full committee determines that the withholding of that information is contrary to the national interest.

(4) The Board shall study and submit to Congress, as part of its first report under paragraph (1)(A), its findings and recommendations as to the feasibility and desirability of using postal personnel or private contractors to help carry out the decennial census.

(g) There is authorized to be appropriated \$4,000,000 for each of fiscal years 1998 through 2001 to carry out this section.

(h) To the extent practicable, members of the Board shall work to promote the most accurate and complete census possible by using their positions to publicize the need for full and timely responses to census questionnaires.

(i)(1) No individual described in paragraph (2) shall be eligible—

(A) to be appointed or to continue serving as a member of the Board or as a member of the staff thereof; or

(B) to enter into any contract with the Board.

(2) This subsection applies with respect to any individual who is serving or who has ever served—

(A) as the Director of the Census; or

(B) with any committee or subcommittee of either House of Congress, having jurisdiction over any aspect of the decennial census, as—

(i) a Member of Congress; or

(ii) a congressional employee.

(j) The Board shall cease to exist on September 30, 2001.

(k) Section 9(a) of title 13, United States Code, is amended in the matter before paragraph (1) thereof by striking "of this title—" and inserting "of this title or section 210 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998—".

SEC. 211. (a) Section 401 of title 22, United States Code, is amended—

(1) in subsection (a), by adding after the first sentence the following: "The Secretary of Commerce may seize and detain any commodity (other than arms or munitions of war) or technology which is intended to be or is being exported in violation of laws governing such exports and may seize and detain any vessel, vehicle, or aircraft containing the same or which has been used or is being used in exporting or attempting to export such articles."; and

(2) in subsection (b), by adding the following after "and not inconsistent with the provisions hereof,"—

"However, with respect to seizures and forfeitures of property under this section by the Secretary of Commerce, such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs law may be performed by such officers as are designated by the Secretary of Commerce or, upon the request of the Secretary of Commerce, by any other agency that has authority to manage and dispose of seized property."

(b) Section 524(c)(11)(B) of title 28, United States Code, is amended by adding at the end thereof "or pursuant to the authority of the Secretary of Commerce".

SEC. 212. Notwithstanding any other provision of law, the Economic Development Administration is directed to transfer funds obligated and awarded to the Butte-Silver Bow Consolidated Local Government as Project Number 05-01-02822 to the Butte Local Development Corporation Revolving Loan Fund to be administered by the Butte Local Development Corporation, such funds to remain available until expended, and, in accordance with section 1557 of title 31, United States Code, funds obligated and awarded in fiscal year 1994 under the heading "Economic Development Administration-Economic Development Assistance Programs" for Metropolitan Dade County, Florida, and subsequently transferred to Miami-Dade Community College for Project No. 04-49-04021 shall be exempt from subchapter IV of chapter 15 of such title and shall remain available for expenditure without fiscal year limitation.

This title may be cited as the "Department of Commerce and Related Agencies Appropriations Act, 1998".

### TITLE III—THE JUDICIARY

#### SUPREME COURT OF THE UNITED STATES

##### SALARIES AND EXPENSES

For expenses necessary for the operation of the Supreme Court, as required by law, excluding care of the building and grounds, including purchase or hire, driving, maintenance, and operation of an automobile for the Chief Justice, not to exceed \$10,000 for the purpose of transporting Associate Justices, and hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344; not to exceed \$10,000 for official reception and representation expenses; and for miscellaneous expenses, to be expended as the Chief Justice may approve; \$29,245,000.

##### CARE OF THE BUILDING AND GROUNDS

For such expenditures as may be necessary to enable the Architect of the Capitol to carry out the duties imposed upon him by the Act approved May 7, 1934 (40 U.S.C. 13a-13b),

\$3,400,000, of which \$485,000 shall remain available until expended.

UNITED STATES COURT OF APPEALS FOR THE  
FEDERAL CIRCUIT  
SALARIES AND EXPENSES

For salaries of the chief judge, judges, and other officers and employees, and for necessary expenses of the court, as authorized by law, \$15,575,000.

UNITED STATES COURT OF INTERNATIONAL  
TRADE  
SALARIES AND EXPENSES

For salaries of the chief judge and eight judges, salaries of the officers and employees of the court, services as authorized by 5 U.S.C. 3109, and necessary expenses of the court, as authorized by law, \$11,449,000.

COURTS OF APPEALS, DISTRICT COURTS, AND  
OTHER JUDICIAL SERVICES  
SALARIES AND EXPENSES  
(INCLUDING TRANSFER OF FUNDS)

For the salaries of circuit and district judges (including judges of the territorial courts of the United States), justices and judges retired from office or from regular active service, judges of the United States Court of Federal Claims, bankruptcy judges, magistrate judges, and all other officers and employees of the Federal Judiciary not otherwise specifically provided for, and necessary expenses of the courts, as authorized by law, \$2,682,400,000 (including the purchase of firearms and ammunition); of which not to exceed \$13,454,000 shall remain available until expended for space alteration projects; and of which not to exceed \$10,000,000 shall remain available until expended for furniture and furnishings related to new space alteration and construction projects.

In addition, for expenses of the United States Court of Federal Claims associated with processing cases under the National Childhood Vaccine Injury Act of 1986, not to exceed \$2,450,000, to be appropriated from the Vaccine Injury Compensation Trust Fund.

VIOLENT CRIME REDUCTION PROGRAMS

For activities of the Federal Judiciary as authorized by law, \$40,000,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund, as authorized by section 190001(a) of Public Law 103-322, and sections 818 and 823 of Public Law 104-132.

DEFENDER SERVICES

For the operation of Federal Public Defender and Community Defender organizations; the compensation and reimbursement of expenses of attorneys appointed to represent persons under the Criminal Justice Act of 1964, as amended; the compensation and reimbursement of expenses of persons furnishing investigative, expert and other services under the Criminal Justice Act (18 U.S.C. 3006A(e)); the compensation (in accordance with Criminal Justice Act maximums) and reimbursement of expenses of attorneys appointed to assist the court in criminal cases where the defendant has waived representation by counsel; the compensation and reimbursement of travel expenses of guardians ad litem acting on behalf of financially eligible minor or incompetent offenders in connection with transfers from the United States to foreign countries with which the United States has a treaty for the execution of penal sentences; and the compensation of attorneys appointed to represent jurors in civil actions for the protection of their employment, as authorized by 28 U.S.C. 1875(d); \$329,529,000, to remain available until expended as authorized by 18 U.S.C. 3006A(i).

FEES OF JURORS AND COMMISSIONERS

For fees and expenses of jurors as authorized by 28 U.S.C. 1871 and 1876; compensation of jury commissioners as authorized by 28 U.S.C. 1863; and compensation of commissioners appointed

in condemnation cases pursuant to rule 71A(h) of the Federal Rules of Civil Procedure (28 U.S.C. Appendix Rule 71A(h)); \$64,438,000, to remain available until expended: Provided, That the compensation of land commissioners shall not exceed the daily equivalent of the highest rate payable under section 5332 of title 5, United States Code.

COURT SECURITY

For necessary expenses, not otherwise provided for, incident to the procurement, installation, and maintenance of security equipment and protective services for the United States Courts in courtrooms and adjacent areas, including building ingress-egress control, inspection of packages, directed security patrols, and other similar activities as authorized by section 1010 of the Judicial Improvement and Access to Justice Act (Public Law 100-702); \$167,214,000, of which not to exceed \$10,000,000 shall remain available until expended for security systems, to be expended directly or transferred to the United States Marshals Service which shall be responsible for administering elements of the Judicial Security Program consistent with standards or guidelines agreed to by the Director of the Administrative Office of the United States Courts and the Attorney General.

ADMINISTRATIVE OFFICE OF THE UNITED STATES  
COURTS

SALARIES AND EXPENSES

For necessary expenses of the Administrative Office of the United States Courts as authorized by law, including travel as authorized by 31 U.S.C. 1345, hire of a passenger motor vehicle as authorized by 31 U.S.C. 1343(b), advertising and rent in the District of Columbia and elsewhere, \$52,000,000, of which not to exceed \$7,500 is authorized for official reception and representation expenses.

FEDERAL JUDICIAL CENTER

SALARIES AND EXPENSES

For necessary expenses of the Federal Judicial Center, as authorized by Public Law 90-219, \$17,495,000; of which \$1,800,000 shall remain available through September 30, 1999, to provide education and training to Federal court personnel; and of which not to exceed \$1,000 is authorized for official reception and representation expenses.

JUDICIAL RETIREMENT FUNDS

PAYMENT TO JUDICIARY TRUST FUNDS

For payment to the Judicial Officers' Retirement Fund, as authorized by 28 U.S.C. 377(o), \$25,000,000; to the Judicial Survivors' Annuities Fund, as authorized by 28 U.S.C. 376(c), \$7,400,000; and to the United States Court of Federal Claims Judges' Retirement Fund, as authorized by 28 U.S.C. 178(l), \$1,800,000.

UNITED STATES SENTENCING COMMISSION

SALARIES AND EXPENSES

For the salaries and expenses necessary to carry out the provisions of chapter 58 of title 28, United States Code, \$9,240,000, of which not to exceed \$1,000 is authorized for official reception and representation expenses.

GENERAL PROVISIONS—THE JUDICIARY

SEC. 301. Appropriations and authorizations made in this title which are available for salaries and expenses shall be available for services as authorized by 5 U.S.C. 3109.

SEC. 302. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Judiciary in this Act may be transferred between such appropriations, but no such appropriation, except "Courts of Appeals, District Courts, and Other Judicial Services, Defender Services" and "Courts of Appeals, District Courts, and Other Judicial Services, Fees of Jurors and Commissioners", shall be increased by more than 10 percent by any such transfers:

Provided, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 303. Notwithstanding any other provision of law, the salaries and expenses appropriation for district courts, courts of appeals, and other judicial services shall be available for official reception and representation expenses of the Judicial Conference of the United States: Provided, That such available funds shall not exceed \$10,000 and shall be administered by the Director of the Administrative Office of the United States Courts in his capacity as Secretary of the Judicial Conference.

SEC. 304. Section 612 of title 28, United States Code, shall be amended by striking out subsection (l).

SEC. 305. (a) COMMISSION ON STRUCTURAL ALTERNATIVES FOR THE FEDERAL COURTS OF APPEALS.—

(1) ESTABLISHMENT AND FUNCTIONS OF COMMISSION.—

(A) ESTABLISHMENT.—There is established a Commission on Structural Alternatives for the Federal Courts of Appeals (hereinafter referred to as the "Commission").

(B) FUNCTIONS.—The functions of the Commission shall be to—

(i) study the present division of the United States into the several judicial circuits;

(ii) study the structure and alignment of the Federal Court of Appeals system, with particular reference to the Ninth Circuit; and

(iii) report to the President and the Congress its recommendations for such changes in circuit boundaries or structure as may be appropriate for the expeditious and effective disposition of the caseload of the Federal Courts of Appeals, consistent with fundamental concepts of fairness and due process.

(2) MEMBERSHIP.—

(A) COMPOSITION.—The Commission shall be composed of 5 members who shall be appointed by the Chief Justice of the United States.

(B) APPOINTMENT.—The members of the Commission shall be appointed within 30 days after the date of enactment of this Act.

(C) VACANCY.—Any vacancy in the Commission shall be filled in the same manner as the original appointment.

(D) CHAIR.—The Commission shall elect a Chair and Vice Chair from among its members.

(E) QUORUM.—Three members of the Commission shall constitute a quorum, but two may conduct hearings.

(3) COMPENSATION.—

(A) IN GENERAL.—Members of the Commission who are officers, or full-time employees, of the United States shall receive no additional compensation for their services, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of duties vested in the Commission, but not in excess of the maximum amounts authorized under section 456 of title 28, United States Code.

(B) PRIVATE MEMBERS.—Members of the Commission from private life shall receive \$200 for each day (including travel time) during which the member is engaged in the actual performance of duties, but not in excess of the maximum amounts authorized under section 456 of title 28, United States Code.

(4) PERSONNEL.—

(A) EXECUTIVE DIRECTOR.—The Commission may appoint an Executive Director who shall receive compensation at a rate not exceeding the rate prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(B) STAFF.—The Executive Director, with the approval of the Commission, may appoint and

fix the compensation of such additional personnel as the Executive Director determines necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service or the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates. Compensation under this paragraph shall not exceed the annual maximum rate of basic pay for a position above GS-15 of the General Schedule under section 5108 of title 5, United States Code.

(C) EXPERTS AND CONSULTANTS.—The Executive Director may procure personal services of experts and consultants as authorized by section 3109 of title 5, United States Code, at rates not to exceed the highest level payable under the General Schedule pay rates under section 5332 of title 5, United States Code.

(D) SERVICES.—The Administrative Office of the United States Courts shall provide administrative services, including financial and budgeting services, to the Commission on a reimbursable basis. The Federal Judicial Center shall provide necessary research services to the Commission on a reimbursable basis.

(5) INFORMATION.—The Commission is authorized to request from any department, agency, or independent instrumentality of the Government any information and assistance the Commission determines necessary to carry out its functions under this section. Each such department, agency, and independent instrumentality is authorized to provide such information and assistance to the extent permitted by law when requested by the Chair of the Commission.

(6) REPORT.—The Commission shall conduct the studies required in this section during the 10-month period beginning on the date on which a quorum of the Commission has been appointed. Not later than 2 months following the completion of such 10-month period, the Commission shall submit its report to the President and the Congress. The Commission shall terminate 90 days after the date of the submission of its report.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Commission such sums, not to exceed \$900,000, as may be necessary to carry out the purposes of this section. Such sums as are appropriated shall remain available until expended.

SEC. 306. Pursuant to section 140 of Public Law 97-92, justices and judges of the United States are authorized during fiscal year 1998, to receive a salary adjustment in accordance with 28 U.S.C. 461: Provided, That \$5,000,000 is available for salary adjustments pursuant to this section and such funds shall be transferred to and merged with appropriations in Title III of this Act.

SEC. 307. Section 44(c) of title 28, United States Code, is amended by adding at the end thereof the following sentence: "In each circuit (other than the Federal judicial circuit) there shall be at least one circuit judge in regular active service appointed from the residents of each state in that circuit."

SEC. 308. Section 3006A(d) of title 18, United States Code, is amended by striking paragraph (4) and inserting the following:

"(4) DISCLOSURE OF FEES.—

"(A) IN GENERAL.—Subject to subparagraphs (B) through (E), the amounts paid under this subsection for services in any case shall be made available to the public by the court upon the court's approval of the payment.

"(B) PRE-TRIAL OR TRIAL IN PROGRESS.—If a trial is in pre-trial status or still in progress and after considering the defendant's interests as set forth in subparagraph (D), the court shall—

"(i) redact any detailed information on the payment voucher provided by defense counsel to justify the expenses to the court; and

"(ii) make public only the amounts approved for payment to defense counsel by dividing those amounts into the following categories:

"(I) Arraignment and or plea.

"(II) Bail and detention hearings.

"(III) Motions.

"(IV) Hearings.

"(V) Interviews and conferences.

"(VI) Obtaining and reviewing records.

"(VII) Legal research and brief writing.

"(VIII) Travel time.

"(IX) Investigative work.

"(X) Experts.

"(XI) Trial and appeals.

"(XII) Other.

"(C) TRIAL COMPLETED.—

"(i) IN GENERAL.—If a request for payment is not submitted until after the completion of the trial and subject to consideration of the defendant's interests as set forth in subparagraph (D), the court shall make available to the public an unredacted copy of the expense voucher.

"(ii) PROTECTION OF THE RIGHTS OF THE DEFENDANT.—If the court determines that defendant's interests as set forth in subparagraph (D) require a limited disclosure, the court shall disclose amounts as provided in subparagraph (B).

"(D) CONSIDERATIONS.—The interests referred to in subparagraphs (B) and (C) are—

"(i) to protect any person's 5th amendment right against self-incrimination;

"(ii) to protect the defendant's 6th amendment rights to effective assistance of counsel;

"(iii) the defendant's attorney-client privilege;

"(iv) the work product privilege of the defendant's counsel;

"(v) the safety of any person; and

"(vi) any other interest that justice may require.

"(E) NOTICE.—The court shall provide reasonable notice of disclosure to the counsel of the defendant prior to the approval of the payments in order to allow the counsel to request redaction based on the considerations set forth in subparagraph (D). Upon completion of the trial, the court shall release unredacted copies of the vouchers provided by defense counsel to justify the expenses to the court. If there is an appeal, the court shall not release unredacted copies of the vouchers provided by defense counsel to justify the expenses to the court until such time as the appeals process is completed, unless the court determines that none of the defendant's interests set forth in subparagraph (D) will be compromised.

"(F) EFFECTIVE DATE.—The amendment made by paragraph (4) shall become effective 60 days after enactment of this Act, will apply only to cases filed on or after the effective date, and shall be in effect for no longer than twenty-four months after the effective date."

This title may be cited as "The Judiciary Appropriations Act, 1998".

#### TITLE IV—DEPARTMENT OF STATE AND RELATED AGENCIES

##### DEPARTMENT OF STATE

##### ADMINISTRATION OF FOREIGN AFFAIRS

##### DIPLOMATIC AND CONSULAR PROGRAMS

For necessary expenses of the Department of State and the Foreign Service not otherwise provided for, including expenses authorized by the State Department Basic Authorities Act of 1956, as amended; representation to certain international organizations in which the United States participates pursuant to treaties, ratified pursuant to the advice and consent of the Senate, or specific Acts of Congress; acquisition by exchange or purchase of passenger motor vehicles as authorized by 31 U.S.C. 1343, 40 U.S.C. 481(c), and 22 U.S.C. 2674; and for expenses of general administration; \$1,705,600,000: Provided, That of the amount made available under this heading, not to exceed \$4,000,000 may be trans-

ferred to, and merged with, funds in the "Emergencies in the Diplomatic and Consular Service" appropriations account, to be available only for emergency evacuations and terrorism rewards: Provided further, That notwithstanding section 140(a)(5), and the second sentence of section 140(a)(3), of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236), fees may be collected during fiscal years 1998 and 1999 under the authority of section 140(a)(1) of that Act: Provided further, That all fees collected under the preceding proviso shall be deposited in fiscal years 1998 and 1999 as an offsetting collection to appropriations made under this heading to recover the costs as set forth under section 140(a)(2) of that Act and shall remain available until expended.

In addition to funds otherwise available, of the funds provided under this heading, \$24,856,000 shall be available only for the Diplomatic Telecommunications Service for operation of existing base services and \$17,312,000 shall be available only for the enhancement of the Diplomatic Telecommunications Service and shall remain available until expended.

In addition, not to exceed \$700,000 in registration fees collected pursuant to section 38 of the Arms Export Control Act, as amended, may be used in accordance with section 45 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2717); in addition not to exceed \$1,252,000 shall be derived from fees collected from other executive agencies for lease or use of facilities located at the International Center in accordance with section 4 of the International Center Act (Public Law 90-553), as amended, and in addition, as authorized by section 5 of such Act \$490,000, to be derived from the reserve authorized by that section, to be used for the purposes set out in that section; and in addition not to exceed \$15,000 which shall be derived from reimbursements, surcharges, and fees for use of Blair House facilities in accordance with section 46 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2718(a)).

Notwithstanding section 402 of this Act, not to exceed 20 percent of the amounts made available in this Act in the appropriation accounts "Diplomatic and Consular Programs" and "Salaries and Expenses" under the heading "Administration of Foreign Affairs" may be transferred between such appropriation accounts: Provided, That any transfer pursuant to this sentence shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

In addition, for counterterrorism requirements overseas, including security guards and equipment, \$23,700,000, to remain available until expended.

##### SALARIES AND EXPENSES

For expenses necessary for the general administration of the Department of State and the Foreign Service, provided for by law, including expenses authorized by section 9 of the Act of August 31, 1964, as amended (31 U.S.C. 3721), and the State Department Basic Authorities Act of 1956, as amended, \$363,513,000.

##### CAPITAL INVESTMENT FUND

For necessary expenses of the Capital Investment Fund, \$86,000,000, to remain available until expended, as authorized in Public Law 103-236: Provided, That section 135(e) of Public Law 103-236 shall not apply to funds available under this heading.

##### OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App.), \$27,495,000, notwithstanding section 209(a)(1) of the Foreign Service Act of 1980, as amended (Public Law 96-465), as it relates to post inspections.

## REPRESENTATION ALLOWANCES

For representation allowances as authorized by section 905 of the Foreign Service Act of 1980, as amended (22 U.S.C. 4085), \$4,200,000.

## PROTECTION OF FOREIGN MISSIONS AND OFFICIALS

For expenses, not otherwise provided, to enable the Secretary of State to provide for extraordinary protective services in accordance with the provisions of section 214 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4314) and 3 U.S.C. 208, \$7,900,000, to remain available until September 30, 1999.

## SECURITY AND MAINTENANCE OF UNITED STATES MISSIONS

For necessary expenses for carrying out the Foreign Service Buildings Act of 1926, as amended (22 U.S.C. 292-300), preserving, maintaining, repairing, and planning for, buildings that are owned or directly leased by the Department of State, and the Diplomatic Security Construction Program as authorized by title IV of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (22 U.S.C. 4851), \$404,000,000, to remain available until expended as authorized by section 24(c) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2696(c)): Provided, That none of the funds appropriated in this paragraph shall be available for acquisition of furniture and furnishings and generators for other departments and agencies.

## EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

For expenses necessary to enable the Secretary of State to meet unforeseen emergencies arising in the Diplomatic and Consular Service pursuant to the requirement of 31 U.S.C. 3526(e), \$5,500,000 to remain available until expended as authorized by section 24(c) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2696(c)), of which not to exceed \$1,000,000 may be transferred to and merged with the Repatriation Loans Program Account, subject to the same terms and conditions.

## REPATRIATION LOANS PROGRAM ACCOUNT

For the cost of direct loans, \$593,000, as authorized by section 4 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2671): Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974. In addition, for administrative expenses necessary to carry out the direct loan program, \$607,000 which may be transferred to and merged with the Salaries and Expenses account under Administration of Foreign Affairs.

## PAYMENT TO THE AMERICAN INSTITUTE IN TAIWAN

For necessary expenses to carry out the Taiwan Relations Act, Public Law 96-8, \$14,000,000.

## PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For payment to the Foreign Service Retirement and Disability Fund, as authorized by law, \$129,935,000.

## INTERNATIONAL ORGANIZATIONS AND CONFERENCES

## CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

For expenses, not otherwise provided for, necessary to meet annual obligations of membership in international multilateral organizations, pursuant to treaties ratified pursuant to the advice and consent of the Senate, conventions or specific Acts of Congress, \$955,515,000, of which not to exceed \$54,000,000 shall remain available until expended for payment of arrearages: Provided, That none of the funds appropriated or otherwise made available by this Act for payment of arrearages may be obligated or expended unless such obligation or expenditure is expressly authorized by the enactment of a subsequent Act that makes payment of arrearages contingent upon reforms that should include the following:

a reduction in the United States assessed share of the United Nations regular budget to 20 percent and of peacekeeping operations to 25 percent; reimbursement for goods and services provided by the United States to the United Nations; certification that the United Nations and its specialized or affiliated agencies have not taken any action to infringe on the sovereignty of the United States; a ceiling on United States contributions to international organizations after fiscal year 1998 of \$900,000,000; establishment of a merit-based personnel system at the United Nations that includes a code of conduct and a personnel evaluation system; United States membership on the Advisory Committee on Administrative and Budgetary Questions that oversees the United Nations budget; access to United Nations financial data by the General Accounting Office; and achievement of a negative growth budget and the establishment of independent inspectors general for affiliated organizations; and improved consultation procedures with the Congress: Provided further, That any payment of arrearages shall be directed toward special activities that are mutually agreed upon by the United States and the respective international organization: Provided further, That 20 percent of the funds appropriated in this paragraph for the assessed contribution of the United States to the United Nations shall be withheld from obligation and expenditure until a certification is made under section 401(b) of Public Law 103-236 and under such other requirements related to the Office of Internal Oversight Services of the United Nations as may be enacted into law for fiscal year 1998: Provided further, That certification under section 401(b) of Public Law 103-236 for fiscal year 1998 may only be made if the Committees on Appropriations and Foreign Relations of the Senate and the Committees on Appropriations and International Relations of the House of Representatives are notified of the steps taken, and anticipated, to meet the requirements of section 401(b) of Public Law 103-236 at least 15 days in advance of the proposed certification: Provided further, That none of the funds appropriated in this paragraph shall be available for a United States contribution to an international organization for the United States share of interest costs made known to the United States Government by such organization for loans incurred on or after October 1, 1984, through external borrowings: Provided further, That of the funds appropriated in this paragraph, \$100,000,000 may be made available only on a semi-annual basis pursuant to a certification by the Secretary of State on a semi-annual basis, that the United Nations has taken no action during the preceding six months to increase funding for any United Nations program without identifying an offsetting decrease during that six-month period elsewhere in the United Nations budget and cause the United Nations to exceed the expected reform budget for the biennium 1998-1999 of \$2,533,000,000: Provided further, That not to exceed \$12,000,000 shall be transferred from funds made available under this heading to the "International Conferences and Contingencies" account for U.S. contributions to the Comprehensive Nuclear Test Ban Treaty Preparatory Commission, provided that such transferred funds are obligated or expended only for Commission meetings and sessions, provisional technical secretariat salaries and expenses, other Commission administrative and training activities, including purchase of training equipment, and upgrades to existing internationally-based monitoring systems involved in cooperative data sharing agreements with the United States as of date of enactment of this Act, until the U.S. Senate ratifies the Comprehensive Nuclear Test Ban Treaty.

## CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

For necessary expenses to pay assessed and other expenses of international peacekeeping activities directed to the maintenance or restoration of international peace and security \$256,000,000, of which not to exceed \$46,000,000 shall remain available until expended for payment of arrearages: Provided, That none of the funds appropriated or otherwise made available by this Act for payment of arrearages may be obligated or expended unless such obligation or expenditure is expressly authorized by the enactment of a subsequent Act described in the first proviso under the heading "Contributions to International Organizations" in this title: Provided further, That none of the funds made available under this Act shall be obligated or expended for any new or expanded United Nations peacekeeping mission unless, at least fifteen days in advance of voting for the new or expanded mission in the United Nations Security Council (or in an emergency, as far in advance as is practicable), (1) the Committees on Appropriations of the House of Representatives and the Senate and other appropriate Committees of the Congress are notified of the estimated cost and length of the mission, the vital national interest that will be served, and the planned exit strategy; and (2) a reprogramming of funds pursuant to section 605 of this Act is submitted, and the procedures therein followed, setting forth the source of funds that will be used to pay for the cost of the new or expanded mission: Provided further, That funds shall be available for peacekeeping expenses only upon a certification by the Secretary of State to the appropriate committees of the Congress that American manufacturers and suppliers are being given opportunities to provide equipment, services, and material for United Nations peacekeeping activities equal to those being given to foreign manufacturers and suppliers.

## INTERNATIONAL COMMISSIONS

For necessary expenses, not otherwise provided for, to meet obligations of the United States arising under treaties, or specific Acts of Congress, as follows:

## INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

For necessary expenses for the United States Section of the International Boundary and Water Commission, United States and Mexico, and to comply with laws applicable to the United States Section, including not to exceed \$6,000 for representation; as follows:

## SALARIES AND EXPENSES

For salaries and expenses, not otherwise provided for, \$17,490,000.

## CONSTRUCTION

For detailed plan preparation and construction of authorized projects, \$6,463,000, to remain available until expended, as authorized by section 24(c) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2696(c)).

## AMERICAN SECTIONS, INTERNATIONAL COMMISSIONS

For necessary expenses, not otherwise provided for the International Joint Commission and the International Boundary Commission, United States and Canada, as authorized by treaties between the United States and Canada or Great Britain, and for the Border Environment Cooperation Commission as authorized by Public Law 103-182; \$5,490,000, of which not to exceed \$9,000 shall be available for representation expenses incurred by the International Joint Commission.

## INTERNATIONAL FISHERIES COMMISSIONS

For necessary expenses for international fisheries commissions, not otherwise provided for, as authorized by law, \$14,549,000: Provided, That

the United States' share of such expenses may be advanced to the respective commissions, pursuant to 31 U.S.C. 3324.

## OTHER

## PAYMENT TO THE ASIA FOUNDATION

For a grant to the Asia Foundation, as authorized by section 501 of Public Law 101-246, \$8,000,000, to remain available until expended, as authorized by section 24(c) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2696(c)).

## RELATED AGENCIES

## ARMS CONTROL AND DISARMAMENT AGENCY

## ARMS CONTROL AND DISARMAMENT ACTIVITIES

For necessary expenses not otherwise provided, for arms control, nonproliferation, and disarmament activities, \$41,500,000, of which not to exceed \$50,000 shall be for official reception and representation expenses as authorized by the Act of September 26, 1961, as amended (22 U.S.C. 2551 et seq.).

## ARMS CONTROL AND DISARMAMENT AGENCY

## ARMS CONTROL AND DISARMAMENT ACTIVITIES

## (REMISSION)

Of the unexpended balances previously appropriated under this heading, \$700,000 are rescinded.

## UNITED STATES INFORMATION AGENCY

## INTERNATIONAL INFORMATION PROGRAMS

For expenses, not otherwise provided for, necessary to enable the United States Information Agency, as authorized by the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 et seq.), the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1431 et seq.), and Reorganization Plan No. 2 of 1977 (91 Stat. 1636), to carry out international communication, educational and cultural activities; and to carry out related activities authorized by law, including employment, without regard to civil service and classification laws, of persons on a temporary basis (not to exceed \$700,000 of this appropriation), as authorized by section 801 of such Act of 1948 (22 U.S.C. 1471), and entertainment, including official receptions, within the United States, not to exceed \$25,000 as authorized by section 804(3) of such Act of 1948 (22 U.S.C. 1474(3)); \$427,097,000: Provided, That not to exceed \$1,400,000 may be used for representation abroad as authorized by section 302 of such Act of 1948 (22 U.S.C. 1452) and section 905 of the Foreign Service Act of 1980 (22 U.S.C. 4085): Provided further, That not to exceed \$6,000,000, to remain available until expended, may be credited to this appropriation from fees or other payments received from or in connection with English teaching, library, motion pictures, and publication programs as authorized by section 810 of such Act of 1948 (22 U.S.C. 1475e) and, notwithstanding any other law, fees from educational advising and counseling, and exchange visitor program services: Provided further, That not to exceed \$920,000 to remain available until expended may be used to carry out projects involving security construction and related improvements for agency facilities not physically located together with Department of State facilities abroad.

## TECHNOLOGY FUND

For expenses necessary to enable the United States Information Agency to provide for the procurement of information technology improvements, as authorized by the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1431 et seq.), the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 et seq.), and Reorganization Plan No. 2 of 1977 (91 Stat. 1636), \$5,050,000, to remain available until expended.

## EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

For expenses of educational and cultural exchange programs, as authorized by the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 et seq.), and Reorganization Plan No. 2 of 1977 (91 Stat. 1636), \$197,731,000, to remain available until expended as authorized by section 105 of such Act of 1961 (22 U.S.C. 2455): Provided, That not to exceed \$800,000, to remain available until expended, may be credited to this appropriation from fees or other payments received from or in connection with English teaching and publication programs as authorized by section 810 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1475e) and, notwithstanding any other provision of law, fees from educational advising and counseling.

## EISENHOWER EXCHANGE FELLOWSHIP PROGRAM TRUST FUND

For necessary expenses of Eisenhower Exchange Fellowships, Incorporated, as authorized by sections 4 and 5 of the Eisenhower Exchange Fellowship Act of 1990 (20 U.S.C. 5204-5205), all interest and earnings accruing to the Eisenhower Exchange Fellowship Program Trust Fund on or before September 30, 1998, to remain available until expended: Provided, That none of the funds appropriated herein shall be used to pay any salary or other compensation, or to enter into any contract providing for the payment thereof, in excess of the rate authorized by 5 U.S.C. 5376; or for purposes which are not in accordance with OMB Circulars A-110 (Uniform Administrative Requirements) and A-122 (Cost Principles for Non-profit Organizations), including the restrictions on compensation for personal services.

## ISRAELI ARAB SCHOLARSHIP PROGRAM

For necessary expenses of the Israeli Arab Scholarship Program as authorized by section 214 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (22 U.S.C. 2452), all interest and earnings accruing to the Israeli Arab Scholarship Fund on or before September 30, 1998, to remain available until expended.

## INTERNATIONAL BROADCASTING OPERATIONS

For expenses necessary to enable the United States Information Agency, as authorized by the United States Information and Educational Exchange Act of 1948, as amended, the United States International Broadcasting Act of 1994, as amended, and Reorganization Plan No. 2 of 1977, to carry out international communication activities, \$364,415,000, of which \$12,100,000 shall remain available until expended, not to exceed \$16,000 may be used for official receptions within the United States as authorized by section 804(3) of such Act of 1948 (22 U.S.C. 1474(3)), not to exceed \$35,000 may be used for representation abroad as authorized by section 302 of such Act of 1948 (22 U.S.C. 1452) and section 905 of the Foreign Service Act of 1980 (22 U.S.C. 4085), and not to exceed \$39,000 may be used for official reception and representation expenses of Radio Free Europe/Radio Liberty; and in addition, notwithstanding any other provision of law, not to exceed \$2,000,000 in receipts from advertising and revenue from business ventures, not to exceed \$500,000 in receipts from cooperating international organizations, and not to exceed \$1,000,000 in receipts from privatization efforts of the Voice of America and the International Broadcasting Bureau, as authorized by section 810 of such Act of 1948 (22 U.S.C. 1475e), to remain available until expended for carrying out authorized purposes.

## BROADCASTING TO CUBA

For expenses necessary to enable the United States Information Agency to carry out the Radio Broadcasting to Cuba Act, as amended, the Television Broadcasting to Cuba Act, and

the International Broadcasting Act of 1994, including the purchase, rent, construction, and improvement of facilities for radio and television transmission and reception, and purchase and installation of necessary equipment for radio and television transmission and reception, \$22,095,000, to remain available until expended.

## RADIO CONSTRUCTION

For the purchase, rent, construction, and improvement of facilities for radio transmission and reception, and purchase and installation of necessary equipment for radio and television transmission and reception as authorized by section 801 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1471), \$40,000,000, to remain available until expended, as authorized by section 704(a) of such Act of 1948 (22 U.S.C. 1477b(a)).

## EAST-WEST CENTER

To enable the Director of the United States Information Agency to provide for carrying out the provisions of the Center for Cultural and Technical Interchange Between East and West Act of 1960 (22 U.S.C. 2054-2057), by grant to the Center for Cultural and Technical Interchange Between East and West in the State of Hawaii, \$12,000,000: Provided, That none of the funds appropriated herein shall be used to pay any salary, or enter into any contract providing for the payment thereof, in excess of the rate authorized by 5 U.S.C. 5376.

## NORTH/SOUTH CENTER

To enable the Director of the United States Information Agency to provide for carrying out the provisions of the North/South Center Act of 1991 (22 U.S.C. 2075), by grant to an educational institution in Florida known as the North/South Center, \$1,500,000, to remain available until expended.

## NATIONAL ENDOWMENT FOR DEMOCRACY

For grants made by the United States Information Agency to the National Endowment for Democracy as authorized by the National Endowment for Democracy Act, \$30,000,000, to remain available until expended.

## GENERAL PROVISIONS—DEPARTMENT OF STATE AND RELATED AGENCIES

SEC. 401. Funds appropriated under this title shall be available, except as otherwise provided, for allowances and differentials as authorized by subchapter 59 of title 5, United States Code; for services as authorized by 5 U.S.C. 3109; and hire of passenger transportation pursuant to 31 U.S.C. 1343(b).

SEC. 402. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of State in this Act may be transferred between such appropriations, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 10 percent by any such transfers: Provided, That not to exceed 5 percent of any appropriation made available for the current fiscal year for the United States Information Agency in this Act may be transferred between such appropriations, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 10 percent by any such transfers: Provided further, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 403. Funds appropriated by this Act for the United States Information Agency, the Arms Control and Disarmament Agency, and the Department of State may be obligated and expended notwithstanding section 701 of the United States Information and Educational Exchange Act of 1948 and section 313 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995, section 53 of the Arms Control

and Disarmament Act, and section 15 of the State Department Basic Authorities Act of 1956.

SEC. 404. (a)(1) For purposes of implementing the International Cooperative Administrative Support Services program in fiscal year 1998, the amounts referred to in paragraph (2) shall be transferred in accordance with the provisions of subsection (b).

(2) Paragraph (1) applies to amounts made available by title IV of this Act under the heading "ADMINISTRATION OF FOREIGN AFFAIRS" as follows:

(A) \$108,932,000 of the amount made available under the paragraph "DIPLOMATIC AND CONSULAR PROGRAMS";

(B) \$3,530,000 of the amount made available under the paragraph "SECURITY AND MAINTENANCE OF UNITED STATES MISSIONS";

(b) Funds transferred pursuant to subsection (a) shall be transferred to the specified appropriation, allocated to the specified account or accounts in the specified amount, be merged with funds in such account or accounts that are available for administrative support expenses of overseas activities, and be available for the same purposes, and subject to the same terms and conditions, as the funds with which merged, as follows:

(1) Appropriations for the Legislative Branch—

(A) for the Library of Congress, for salaries and expenses, \$500,000; and

(B) for the General Accounting Office, for salaries and expenses, \$12,000.

(2) Appropriations for the Office of the United States Trade Representative, for salaries and expenses, \$302,000.

(3) Appropriations for the Department of Commerce, for the International Trade Administration, for operations and administration, \$7,055,000.

(4) Appropriations for the Department of Justice—

(A) for legal activities—

(i) for general legal activities, for salaries and expenses, \$194,000; and

(ii) for the United States Marshals Service, for salaries and expenses, \$2,000;

(B) for the Federal Bureau of Investigation, for salaries and expenses, \$2,477,000;

(C) for the Drug Enforcement Administration, for salaries and expenses, \$6,356,000; and

(D) for the Immigration and Naturalization Service, for salaries and expenses, \$1,313,000.

(5) Appropriations for the United States Information Agency, for international information programs, \$25,047,000.

(6) Appropriations for the Arms Control and Disarmament Agency, for arms control and disarmament activities, \$1,247,000.

(7) Appropriations to the President—

(A) for the Foreign Military Financing Program, for administrative costs, \$6,660,000;

(B) for the Economic Support Fund, \$336,000;

(C) for the Agency for International Development—

(i) for operating expenses, \$6,008,000;

(ii) for the Urban and Environmental Credit Program, \$54,000;

(iii) for the Development Assistance Fund, \$124,000;

(iv) for the Development Fund for Africa, \$526,000;

(v) for assistance for the new independent states of the former Soviet Union, \$818,000;

(vi) for assistance for Eastern Europe and the Baltic States, \$283,000; and

(vii) for international disaster assistance, \$306,000;

(D) for the Peace Corps, \$3,672,000; and

(E) for the Department of State—

(i) for international narcotics control, \$1,117,000; and

(ii) for migration and refugee assistance, \$394,000.

(8) Appropriations for the Department of Defense—

(A) for operation and maintenance—

(i) for operation and maintenance, Army, \$4,394,000;

(ii) for operation and maintenance, Navy, \$1,824,000;

(iii) for operation and maintenance, Air Force, \$1,603,000; and

(iv) for operation and maintenance, Defense-Wide, \$21,993,000; and

(B) for procurement, for other procurement, Air Force, \$4,211,000.

(9) Appropriations for the American Battle Monuments Commission, for salaries and expenses, \$210,000.

(10) Appropriations for the Department of Agriculture—

(A) for the Animal and Plant Health Inspection Service, for salaries and expenses, \$932,000;

(B) for the Foreign Agricultural Service and General Sales Manager, \$4,521,000; and

(C) for the Agricultural Research Service, \$16,000.

(11) Appropriations for the Department of Treasury—

(A) for the United States Customs Service, for salaries and expenses, \$2,002,000;

(B) for departmental offices, for salaries and expenses, \$804,000;

(C) for the Internal Revenue Service, for tax law enforcement, \$662,000;

(D) for the Bureau of Alcohol, Tobacco, and Firearms, for salaries and expenses, \$17,000;

(E) for the United States Secret Service, for salaries and expenses, \$617,000; and

(F) for the Comptroller of the Currency, for assessment funds, \$29,000.

(12) Appropriations for the Department of Transportation—

(A) for the Federal Aviation Administration, for operations, \$1,594,000; and

(B) for the Coast Guard, for operating expenses, \$65,000.

(13) Appropriations for the Department of Labor, for departmental management, for salaries and expenses, \$58,000.

(14) Appropriations for the Department of Health and Human Services—

(A) for the National Institutes of Health, for the National Cancer Institute, \$42,000;

(B) for the Office of the Secretary, for general departmental management, \$71,000; and

(C) for the Centers for Disease Control and Prevention, for disease control, research, and training, \$522,000.

(15) Appropriations for the Social Security Administration, for administrative expenses, \$370,000.

(16) Appropriations for the Department of the Interior—

(A) for the United States Fish and Wildlife Service, for resource management, \$12,000;

(B) for the United States Geological Survey, for surveys, investigations, and research, \$80,000; and

(C) for the Bureau of Reclamation, for water and related resources, \$101,000.

(17) Appropriations for the Department of Veterans Affairs, for departmental administration, for general operating expenses, \$453,000.

(18) Appropriations for the National Aeronautics and Space Administration, for mission support, \$183,000.

(19) Appropriations for the National Science Foundation, for research and related activities, \$39,000.

(20) Appropriations for the Federal Emergency Management Agency, for salaries and expenses, \$4,000.

(21) Appropriations for the Department of Energy—

(A) for departmental administration, \$150,000; and

(B) for atomic energy defense activities, for other defense activities, \$54,000.

(22) Appropriations for the Nuclear Regulatory Commission, for salaries and expenses, \$26,000.

(c)(1) The amount in subsection (a)(2)(A) is reduced by \$2,800,000.

(2) Each amount in subsection (b) is reduced on a pro rata basis in the same proportion as \$2,800,000 bears to \$112,462,000, rounded to the nearest thousand.

SEC. 405. (a) An employee who regularly commutes from his or her place of residence in the continental United States to an official duty station in Canada or Mexico shall receive a border equalization adjustment equal to the amount of comparability payments under section 5304 of title V, United States Code, that he or she would receive if assigned to an official duty station within the United States locality pay area closest to the employee's official duty station.

(b) For purposes of this section, the term "employee" shall mean a person who—

(1) is an "employee" as defined under section 2105 of title V, United States Code, and

(2) is employed by the United States Department of State, the United States Information Agency, the United States Agency for International Development, or the International Joint Commission, except that the term shall not include members of the Foreign Service as defined by section 103 of the Foreign Service Act of 1980 (P.L. 96-465), section 3903 of title 22 of the United States Code.

(c) An equalization adjustment payable under this section shall be considered basic pay for the same purposes as are comparability payments under section 5304 of title V, United States Code, and its implementing regulations.

(d) The agencies referenced in subsection (c)(2) are authorized to promulgate regulations to carry out the purposes of this section.

This title may be cited as the "Department of State and Related Agencies Appropriations Act, 1998".

TITLE V—RELATED AGENCIES  
DEPARTMENT OF TRANSPORTATION  
MARITIME ADMINISTRATION  
OPERATING-DIFFERENTIAL SUBSIDIES  
(LIQUIDATION OF CONTRACT AUTHORITY)

For the payment of obligations incurred for operating-differential subsidies, as authorized by the Merchant Marine Act, 1936, as amended, \$51,030,000, to remain available until expended.

MARITIME SECURITY PROGRAM

For necessary expenses to maintain and preserve a U.S.-flag merchant fleet to serve the national security needs of the United States, \$35,500,000, to remain available until expended.

OPERATIONS AND TRAINING

For necessary expenses of operations and training activities authorized by law, \$67,600,000: Provided, That reimbursements may be made to this appropriation from receipts to the "Federal Ship Financing Fund" for administrative expenses in support of that program in addition to any amount heretofore appropriated.

MARITIME GUARANTEED LOAN (TITLE XI) PROGRAM  
ACCOUNT

For the cost of guaranteed loans, as authorized by the Merchant Marine Act, 1936, \$32,000,000, to remain available until expended: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: Provided further, That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed \$1,000,000,000.

In addition, for administrative expenses to carry out the guaranteed loan program, not to

exceed \$3,725,000, which shall be transferred to and merged with the appropriation for Operations and Training.

ADMINISTRATIVE PROVISIONS—MARITIME  
ADMINISTRATION

Notwithstanding any other provision of this Act, the Maritime Administration is authorized to furnish utilities and services and make necessary repairs in connection with any lease, contract, or occupancy involving Government property under control of the Maritime Administration, and payments received therefor shall be credited to the appropriation charged with the cost thereof: Provided, That rental payments under any such lease, contract, or occupancy for items other than such utilities, services, or repairs shall be covered into the Treasury as miscellaneous receipts.

No obligations shall be incurred during the current fiscal year from the construction fund established by the Merchant Marine Act, 1936, or otherwise, in excess of the appropriations and limitations contained in this Act or in any prior appropriation Act, and all receipts which otherwise would be deposited to the credit of said fund shall be covered into the Treasury as miscellaneous receipts.

COMMISSION FOR THE PRESERVATION OF  
AMERICA'S HERITAGE ABROAD  
SALARIES AND EXPENSES

For expenses for the Commission for the Preservation of America's Heritage Abroad, \$250,000, as authorized by Public Law 99-83, section 1303.

COMMISSION ON CIVIL RIGHTS  
SALARIES AND EXPENSES

For necessary expenses of the Commission on Civil Rights, including hire of passenger motor vehicles, \$8,740,000: Provided, That not to exceed \$50,000 may be used to employ consultants: Provided further, That none of the funds appropriated in this paragraph shall be used to employ in excess of four full-time individuals under Schedule C of the Excepted Service exclusive of one special assistant for each Commissioner: Provided further, That none of the funds appropriated in this paragraph shall be used to reimburse Commissioners for more than 75 billable days, with the exception of the Chairperson who is permitted 125 billable days.

COMMISSION ON IMMIGRATION REFORM  
SALARIES AND EXPENSES

For necessary expenses of the Commission on Immigration Reform pursuant to section 141(f) of the Immigration Act of 1990, \$459,000 to remain available until expended.

COMMISSION ON SECURITY AND COOPERATION IN  
EUROPE  
SALARIES AND EXPENSES

For necessary expenses of the Commission on Security and Cooperation in Europe, as authorized by Public Law 94-304, \$1,090,000, to remain available until expended as authorized by section 3 of Public Law 99-7.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION  
SALARIES AND EXPENSES

For necessary expenses of the Equal Employment Opportunity Commission as authorized by title VII of the Civil Rights Act of 1964, as amended (29 U.S.C. 206(d) and 621-634), the Americans with Disabilities Act of 1990, and the Civil Rights Act of 1991, including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles as authorized by 31 U.S.C. 1343(b); non-monetary awards to private citizens; and not to exceed \$27,500,000 for payments to State and local enforcement agencies for services to the Commission pursuant to title VII of the Civil Rights Act of 1964, as amended, sections 6 and 14 of the Age Discrimination in Employment Act, the Americans with Disabilities Act of 1990, and the Civil Rights Act of 1991;

\$242,000,000: Provided, That the Commission is authorized to make available for official reception and representation expenses not to exceed \$2,500 from available funds.

FEDERAL COMMUNICATIONS COMMISSION  
SALARIES AND EXPENSES

For necessary expenses of the Federal Communications Commission, as authorized by law, including uniforms and allowances therefor, as authorized by 5 U.S.C. 5901-02; not to exceed \$600,000 for land and structure; not to exceed \$500,000 for improvement and care of grounds and repair to buildings; not to exceed \$4,000 for official reception and representation expenses; purchase (not to exceed 16) and hire of motor vehicles; special counsel fees; and services as authorized by 5 U.S.C. 3109; \$186,514,000, of which not to exceed \$300,000 shall remain available until September 30, 1999, for research and policy studies: Provided, That \$162,523,000 of offsetting collections shall be assessed and collected pursuant to section 9 of title I of the Communications Act of 1934, as amended, and shall be retained and used for necessary expenses in this appropriation, and shall remain available until expended: Provided further, That the sum herein appropriated shall be reduced as such offsetting collections are received during fiscal year 1998 so as to result in a final fiscal year 1998 appropriation estimated at \$23,991,000: Provided further, That any offsetting collections received in excess of \$162,523,000 in fiscal year 1998 shall remain available until expended, but shall not be available for obligation until October 1, 1998.

FEDERAL MARITIME COMMISSION  
SALARIES AND EXPENSES

For necessary expenses of the Federal Maritime Commission as authorized by section 201(d) of the Merchant Marine Act of 1936, as amended (46 U.S.C. App. 1111), including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles as authorized by 31 U.S.C. 1343(b); and uniforms or allowances therefor, as authorized by 5 U.S.C. 5901-02; \$14,000,000: Provided, That not to exceed \$2,000 shall be available for official reception and representation expenses.

FEDERAL TRADE COMMISSION  
SALARIES AND EXPENSES

For necessary expenses of the Federal Trade Commission, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and not to exceed \$2,000 for official reception and representation expenses; \$88,500,000: Provided, That not to exceed \$300,000 shall be available for use to contract with a person or persons for collection services in accordance with the terms of 31 U.S.C. 3718, as amended: Provided further, That notwithstanding any other provision of law, not to exceed \$70,000,000 of offsetting collections derived from fees collected for premerger notification filings under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (15 U.S.C. 18(a)) shall be retained and used for necessary expenses in this appropriation, and shall remain available until expended: Provided further, That the sum herein appropriated from the General Fund shall be reduced as such offsetting collections are received during fiscal year 1998, so as to result in a final fiscal year 1998 appropriation from the General Fund estimated at not more than \$18,500,000, to remain available until expended: Provided further, That any fees received in excess of \$70,000,000 in fiscal year 1998 shall remain available until expended, but shall not be available for obligation until October 1, 1998: Provided further, That none of the funds made available to the Federal Trade Commission shall be available for obligation for expenses authorized by section 151 of the Federal Deposit

Insurance Corporation Improvement Act of 1991 (Public Law 102-242, 105 Stat. 2282-2285).

LEGAL SERVICES CORPORATION

PAYMENT TO THE LEGAL SERVICES CORPORATION

For payment to the Legal Services Corporation to carry out the purposes of the Legal Services Corporation Act of 1974, as amended, \$283,000,000, of which \$274,400,000 is for basic field programs and required independent audits; \$1,500,000 is for the Office of Inspector General, of which such amounts as may be necessary may be used to conduct additional audits of recipients; and \$7,100,000 is for management and administration.

ADMINISTRATIVE PROVISIONS—LEGAL SERVICES  
CORPORATION

SEC. 501. (a) CONTINUATION OF COMPETITIVE SELECTION PROCESS.—None of the funds appropriated in this Act to the Legal Services Corporation may be used to provide financial assistance to any person or entity except through a competitive selection process conducted in accordance with regulations promulgated by the Corporation in accordance with the criteria set forth in subsections (c), (d), and (e) of section 503 of Public Law 104-134 (110 Stat. 1321-52 et seq.).

(b) INAPPLICABILITY OF CERTAIN PROCEDURES.—Sections 1007(a)(9) and 1011 of the Legal Services Corporation Act (42 U.S.C. 2996(a)(9) and 2996j) shall not apply to the provision, denial, suspension, or termination of any financial assistance using funds appropriated in this Act.

(c) ADDITIONAL PROCEDURES.—If, during any term of a grant or contract awarded to a recipient by the Legal Services Corporation under the competitive selection process referred to in subsection (a) and applicable Corporation regulations, the Corporation finds, after notice and opportunity for the recipient to be heard, that the recipient has failed to comply with any requirement of the Legal Services Corporation Act (42 U.S.C. 2996 et seq.), this Act, or any other applicable law relating to funding for the Corporation, the Corporation may terminate the grant or contract and institute a new competitive selection process for the area served by the recipient, notwithstanding the terms of the recipient's grant or contract.

SEC. 502. (a) CONTINUATION OF REQUIREMENTS AND RESTRICTIONS.—None of the funds appropriated in this Act to the Legal Services Corporation shall be expended for any purpose prohibited or limited by, or contrary to any of the provisions of—

(1) sections 501, 502, 505, 506, and 507 of Public Law 104-134 (110 Stat. 1321-51 et seq.), and all funds appropriated in this Act to the Legal Services Corporation shall be subject to the same terms and conditions as set forth in such sections, except that all references in such sections to 1995 and 1996 shall be deemed to refer instead to 1997 and 1998, respectively; and

(2) section 504 of Public Law 104-134 (110 Stat. 1321-53 et seq.), and all funds appropriated in this Act to the Legal Services Corporation shall be subject to the same terms and conditions set forth in such section, except that—

(A) subsection (c) of such section 504 shall not apply;

(B) paragraph (3) of section 508(b) of Public Law 104-134 (110 Stat. 1321-58) shall apply with respect to the requirements of subsection (a)(13) of such section 504, except that all references in such section 508(b) to the date of enactment shall be deemed to refer to April 26, 1996; and

(C) subsection (a)(11) of such section 504 shall not be construed to prohibit a recipient from using funds derived from a source other than the Corporation to provide related legal assistance to—

(i) an alien who has been battered or subjected to extreme cruelty in the United States by

a spouse or a parent, or by a member of the spouse's or parent's family residing in the same household as the alien and the spouse or parent consented or acquiesced to such battery or cruelty; or

(ii) an alien whose child has been battered or subjected to extreme cruelty in the United States by a spouse or parent of the alien (without the active participation of the alien in the battery or extreme cruelty), or by a member of the spouse's or parent's family residing in the same household as the alien and the spouse or parent consented or acquiesced to such battery or cruelty, and the alien did not actively participate in such battery or cruelty.

(b) DEFINITIONS.—For purposes of subsection (a)(2)(C):

(1) The term "battered or subjected to extreme cruelty" has the meaning given such term under regulations issued pursuant to subtitle G of the Violence Against Women Act of 1994 (Public Law 103-322; 108 Stat. 1953).

(2) The term "related legal assistance" means legal assistance directly related to the prevention of, or obtaining of relief from, the battery or cruelty described in such subsection.

SEC. 503. (a) CONTINUATION OF AUDIT REQUIREMENTS.—The requirements of section 509 of Public Law 104-134 (110 Stat. 1321-58 et seq.), other than subsection (l) of such section, shall apply during fiscal year 1998.

(b) REQUIREMENT OF ANNUAL AUDIT.—An annual audit of each person or entity receiving financial assistance from the Legal Services Corporation under this Act shall be conducted during fiscal year 1998 in accordance with the requirements referred to in subsection (a).

SEC. 504. (a) DEBARMENT.—The Legal Services Corporation may debar a recipient, on a showing of good cause, from receiving an additional award of financial assistance from the Corporation. Any such action to debar a recipient shall be instituted after the Corporation provides notice and an opportunity for a hearing to the recipient.

(b) REGULATIONS.—The Legal Services Corporation shall promulgate regulations to implement this section.

(c) GOOD CAUSE.—In this section, the term "good cause", used with respect to debarment, includes—

(1) prior termination of the financial assistance of the recipient, under part 1640 of title 45, Code of Federal Regulations (or any similar corresponding regulation or ruling);

(2) prior termination in whole, under part 1606 of title 45, Code of Federal Regulations (or any similar corresponding regulation or ruling), of the most recent financial assistance received by the recipient, prior to date of the debarment decision;

(3) substantial violation by the recipient of the statutory or regulatory restrictions that prohibit recipients from using financial assistance made available by the Legal Services Corporation or other financial assistance for purposes prohibited under the Legal Services Corporation Act (42 U.S.C. 2996 et seq.) or for involvement in any activity prohibited by, or inconsistent with, section 504 of Public Law 104-134 (110 Stat. 1321-53 et seq.), section 502(a)(2) of Public Law 104-208 (110 Stat. 3009-59 et seq.), or section 502(a)(2) of this Act;

(4) knowing entry by the recipient into a subgrant, subcontract, or other agreement with an entity that had been debarred by the Corporation; or

(5) the filing of a lawsuit by the recipient, on behalf of the recipient, as part of any program receiving any Federal funds, naming the Corporation, or any agency or employee of a Federal, State, or local government, as a defendant.

SEC. 505. (a) Not later than January 1, 1998, the Legal Services Corporation shall implement

a system of case information disclosure which shall apply to all basic field programs which receive funds from the Legal Services Corporation from funds appropriated in this Act.

(b) Any basic field program which receives Federal funds from the Legal Services Corporation from funds appropriated in this Act must disclose to the public in written form, upon request, and to the Legal Services Corporation in semiannual reports, the following information about each case filed by its attorneys in any court:

(1) The name and full address of each party to the legal action unless such information is protected by an order or rule of a court or by State or Federal law or revealing such information would put the client of the recipient of such Federal funds at risk of physical harm.

(2) The cause of action in the case.

(3) The name and address of the court in which the case was filed and the case number assigned to the legal action.

(c) The case information disclosed in semi-annual reports to the Legal Services Corporation shall be subject to disclosure under section 552 of title 5, United States Code.

SEC. 506. In establishing the income or assets of an individual who is a victim of domestic violence, under section 1007(a)(2) of the Legal Services Corporation Act (42 U.S.C. 2996f(a)(2)), to determine if the individual is eligible for legal assistance, a recipient described in such section shall consider only the assets and income of the individual, and shall not include any jointly held assets.

#### MARINE MAMMAL COMMISSION

##### SALARIES AND EXPENSES

For necessary expenses of the Marine Mammal Commission as authorized by title II of Public Law 92-522, as amended, \$1,185,000.

#### SECURITIES AND EXCHANGE COMMISSION

##### SALARIES AND EXPENSES

For necessary expenses for the Securities and Exchange Commission, including services as authorized by 5 U.S.C. 3109, the rental of space (to include multiple year leases) in the District of Columbia and elsewhere, and not to exceed \$3,000 for official reception and representation expenses, \$283,000,000, of which not to exceed \$10,000 may be used toward funding a permanent secretariat for the International Organization of Securities Commissions, and of which not to exceed \$100,000 shall be available for expenses for consultations and meetings hosted by the Commission with foreign governmental and other regulatory officials, members of their delegations, appropriate representatives and staff to exchange views concerning developments relating to securities matters, development and implementation of cooperation agreements concerning securities matters and provision of technical assistance for the development of foreign securities markets, such expenses to include necessary logistic and administrative expenses and the expenses of Commission staff and foreign invitees in attendance at such consultations and meetings including: (1) such incidental expenses as meals taken in the course of such attendance, (2) any travel and transportation to or from such meetings, and (3) any other related lodging or subsistence: Provided, That fees and charges authorized by sections 6(b)(4) of the Securities Act of 1933 (15 U.S.C. 77f(b)(4)) and 31(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78e(d)) shall be credited to this account as offsetting collections: Provided further, That not to exceed \$249,523,000 of such offsetting collections shall be available until expended for necessary expenses of this account: Provided further, That the total amount appropriated from the General Fund for fiscal year 1998 under this heading shall be reduced as all such offsetting fees are deposited to this appropriation so as to result in

a final total fiscal year 1998 appropriation from the General Fund estimated at not more than \$33,477,000.

#### SMALL BUSINESS ADMINISTRATION

##### SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, of the Small Business Administration as authorized by Public Law 103-403, including hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344, and not to exceed \$3,500 for official reception and representation expenses, \$254,200,000, of which: \$3,000,000 shall be available for a grant to Lackawanna County, Pennsylvania for infrastructure development to assist in small business development; \$3,000,000 shall be available for a grant to the NTTC at Wheeling Jesuit University to continue the outreach program to assist small business development; \$2,000,000 shall be for a grant to Western Carolina University to develop a facility to assist in small business and rural economic development; \$1,500,000 shall be available for a grant to the State University of New York to develop a facility and operate the Institute of Entrepreneurship for small business and workforce development; \$1,000,000 shall be for a grant for the Genesis Small Business Incubator Facility, Fayetteville, Arkansas; and \$500,000 shall be available for a continuation grant to the Center for Entrepreneurial Opportunity in Greensburg, Pennsylvania, to provide for small business consulting and assistance: Provided, That the Administrator is authorized to charge fees to cover the cost of publications developed by the Small Business Administration, and certain loan servicing activities: Provided further, That notwithstanding 31 U.S.C. 3302, revenues received from all such activities shall be credited to this account, to be available for carrying out these purposes without further appropriations: Provided further, That \$75,800,000 shall be available to fund grants for performance in fiscal year 1998 or fiscal year 1999 as authorized by section 21 of the Small Business Act, as amended.

##### OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App. 1-11, as amended by Public Law 100-504), \$10,000,000.

##### BUSINESS LOANS PROGRAM ACCOUNT

For the cost of guaranteed loans, \$181,232,000, as authorized by 15 U.S.C. 631 note, of which \$45,000,000 shall remain available until September 30, 1999: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: Provided further, That during fiscal year 1998, commitments to guarantee loans under section 503 of the Small Business Investment Act of 1958, as amended, shall not exceed the amount of financings authorized under section 20(n)(2)(B) of the Small Business Act, as amended: Provided further, That during fiscal year 1998, commitments for general business loans authorized under section 7(a) of the Small Business Act, as amended, shall not exceed \$10,000,000,000 without prior notification of the Committees on Appropriations of the House of Representatives and Senate in accordance with section 605 of this Act.

In addition, for administrative expenses to carry out the direct and guaranteed loan programs, \$94,000,000, which may be transferred to and merged with the appropriations for Salaries and Expenses.

##### DISASTER LOANS PROGRAM ACCOUNT

For the cost of direct loans authorized by section 7(b) of the Small Business Act, as amended, \$23,200,000, to remain available until expended: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974.

In addition, for administrative expenses to carry out the direct loan program, \$150,000,000, including not to exceed \$500,000 for the Office of Inspector General of the Small Business Administration for audits and reviews of disaster loans and the disaster loan program, and said sums shall be transferred to and merged with appropriations for the Office of the Inspector General.

#### SURETY BOND GUARANTEES REVOLVING FUND

For additional capital for the "Surety Bond Guarantees Revolving Fund", authorized by the Small Business Investment Act, as amended, \$3,500,000, to remain available without fiscal year limitation as authorized by 15 U.S.C. 631 note.

#### ADMINISTRATIVE PROVISION—SMALL BUSINESS ADMINISTRATION

Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Small Business Administration in this Act may be transferred between such appropriations, but no such appropriation shall be increased by more than 10 percent by any such transfers: Provided, That any transfer pursuant to this paragraph shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

#### STATE JUSTICE INSTITUTE

##### SALARIES AND EXPENSES

For necessary expenses of the State Justice Institute, as authorized by the State Justice Institute Authorization Act of 1992 (Public Law 102-572 (106 Stat. 4515-4516)), \$6,850,000, to remain available until expended: Provided, That not to exceed \$2,500 shall be available for official reception and representation expenses.

#### TITLE VI—GENERAL PROVISIONS

SEC. 601. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 602. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 603. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 604. If any provision of this Act or the application of such provision to any person or circumstances shall be held invalid, the remainder of the Act and the application of each provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

SEC. 605. (a) None of the funds provided under this Act, or provided under previous appropriations Acts to the agencies funded by this Act that remain available for obligation or expenditure in fiscal year 1998, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure through a reprogramming of funds which: (1) creates new programs; (2) eliminates a program, project, or activity; (3) increases funds or personnel by any means for any project or activity for which funds have been denied or restricted; (4) relocates an office or employees; (5) reorganizes offices, programs, or activities; or (6) contracts out or privatizes any functions, or activities presently performed by Federal employees; unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

(b) None of the funds provided under this Act, or provided under previous appropriations Acts to the agencies funded by this Act that remain available for obligation or expenditure in fiscal year 1998, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure for activities, programs, or projects through a reprogramming of funds in excess of \$500,000 or 10 percent, whichever is less, that: (1) augments existing programs, projects, or activities; (2) reduces by 10 percent funding for any existing program, project, or activity, or numbers of personnel by 10 percent as approved by Congress; or (3) results from any general savings from a reduction in personnel which would result in a change in existing programs, activities, or projects as approved by Congress; unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

SEC. 606. None of the funds made available in this Act may be used for the construction, repair (other than emergency repair), overhaul, conversion, or modernization of vessels for the National Oceanic and Atmospheric Administration in shipyards located outside of the United States.

SEC. 607. (a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

(c) PROHIBITION OF CONTRACTS WITH PERSONS FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available in this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 608. None of the funds made available in this Act may be used to implement, administer, or enforce any guidelines of the Equal Employment Opportunity Commission covering harassment based on religion, when it is made known to the Federal entity or official to which such funds are made available that such guidelines do not differ in any respect from the proposed guidelines published by the Commission on October 1, 1993 (58 Fed. Reg. 51266).

SEC. 609. None of the funds appropriated or otherwise made available by this Act may be obligated or expended to pay for any cost incurred for: (1) opening or operating any United States diplomatic or consular post in the Socialist Republic of Vietnam that was not operating on July 11, 1995; (2) expanding any United States diplomatic or consular post in the Socialist Republic of Vietnam that was operating on July 11, 1995; or (3) increasing the total number of personnel assigned to United States diplomatic or consular posts in the Socialist Republic of Vietnam above the levels existing on July 11, 1995, unless the President certifies within 60 days the following:

(A) Based upon all information available to the United States Government, the Government

of the Socialist Republic of Vietnam is fully cooperating in good faith with the United States in the following:

(i) Resolving discrepancy cases, live sightings, and field activities.

(ii) Recovering and repatriating American remains.

(iii) Accelerating efforts to provide documents that will help lead to fullest possible accounting of prisoners of war and missing in action.

(iv) Providing further assistance in implementing trilateral investigations with Laos.

(B) The remains, artifacts, eyewitness accounts, archival material, and other evidence associated with prisoners of war and missing in action recovered from crash sites, military actions, and other locations in Southeast Asia are being thoroughly analyzed by the appropriate laboratories with the intent of providing surviving relatives with scientifically defensible, legal determinations of death or other accountability that are fully documented and available in unclassified and unredacted form to immediate family members.

SEC. 610. None of the funds made available by this Act may be used for any United Nations undertaking when it is made known to the Federal official having authority to obligate or expend such funds: (1) that the United Nations undertaking is a peacekeeping mission; (2) that such undertaking will involve United States Armed Forces under the command or operational control of a foreign national; and (3) that the President's military advisors have not submitted to the President a recommendation that such involvement is in the national security interests of the United States and the President has not submitted to the Congress such a recommendation.

SEC. 611. None of the funds made available in this Act shall be used to provide the following amenities or personal comforts in the Federal prison system—

(1) in-cell television viewing except for prisoners who are segregated from the general prison population for their own safety;

(2) the viewing of R, X, and NC-17 rated movies, through whatever medium presented;

(3) any instruction (live or through broadcasts) or training equipment for boxing, wrestling, judo, karate, or other martial art, or any bodybuilding or weightlifting equipment of any sort;

(4) possession of in-cell coffee pots, hot plates or heating elements; or

(5) the use or possession of any electric or electronic musical instrument.

SEC. 612. None of the funds made available in title II for the National Oceanic and Atmospheric Administration (NOAA) under the headings "Operations, Research, and Facilities" and "Procurement, Acquisition and Construction" may be used to implement sections 603, 604, and 605 of Public Law 102-567: Provided, That NOAA may develop a modernization plan for its fisheries research vessels that takes fully into account opportunities for contracting for fisheries surveys.

SEC. 613. Any costs incurred by a Department or agency funded under this Act resulting from personnel actions taken in response to funding reductions included in this Act shall be absorbed within the total budgetary resources available to such Department or agency: Provided, That the authority to transfer funds between appropriations accounts as may be necessary to carry out this section is provided in addition to authorities included elsewhere in this Act: Provided further, That use of funds to carry out this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 614. None of the funds made available in this Act to the Federal Bureau of Prisons may be used to distribute or make available any commercially published information or material to a prisoner when it is made known to the Federal official having authority to obligate or expend such funds that such information or material is sexually explicit or features nudity.

SEC. 615. Of the funds appropriated in this Act under the heading "OFFICE OF JUSTICE PROGRAMS—STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE", not more than 90 percent of the amount to be awarded to an entity under the Local Law Enforcement Block Grant shall be made available to such an entity when it is made known to the Federal official having authority to obligate or expend such funds that the entity that employs a public safety officer (as such term is defined in section 1204 of title I of the Omnibus Crime Control and Safe Streets Act of 1968) does not provide such a public safety officer who retires or is separated from service due to injury suffered as the direct and proximate result of a personal injury sustained in the line of duty while responding to an emergency situation or a hot pursuit (as such terms are defined by State law) with the same or better level of health insurance benefits that are paid by the entity at the time of retirement or separation.

SEC. 616. (a) None of the funds made available in this Act may be used to issue or renew a fishing permit or authorization for any fishing vessel of the United States greater than 165 feet in registered length or of more than 750 gross registered tons, and that has an engine or engines capable of producing a total of more than 3,000 shaft horsepower—

(1) as specified in the permit application required under part 648.4(a)(5) of title 50, Code of Federal Regulations, part 648.12 of title 50, Code of Federal Regulations, and the authorization required under part 648.80(d)(2) of title 50, Code of Federal Regulations, to engage in fishing for Atlantic mackerel or herring (or both) under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.); or

(2) that would allow such a vessel to engage in the catching, taking, or harvesting of fish in any other fishery within the exclusive economic zone of the United States (except territories), unless a certificate of documentation had been issued for the vessel and endorsed with a fishery endorsement that was effective on September 25, 1997 and such fishery endorsement was not surrendered at any time thereafter.

(b) Any fishing permit or authorization issued or renewed prior to the date of the enactment of this Act for a fishing vessel to which the prohibition in subsection (a)(1) applies that would allow such vessel to engage in fishing for Atlantic mackerel or herring (or both) during fiscal year 1998 shall be null and void, and none of the funds made available in this Act may be used to issue a fishing permit or authorization that would allow a vessel whose permit or authorization was made null and void pursuant to this subsection to engage in the catching, taking, or harvesting of fish in any other fishery within the exclusive economic zone of the United States.

SEC. 617. During fiscal year 1998 and in any fiscal year thereafter, the court, in any criminal case (other than a case in which the defendant is represented by assigned counsel paid for by the public) pending on or after the date of the enactment of this Act, may award to a prevailing party, other than the United States, a reasonable attorney's fee and other litigation expenses, where the court finds that the position of the United States was vexatious, frivolous, or in bad faith, unless the court finds that special circumstances make such an award unjust. Such awards shall be granted pursuant to the procedures and limitations (but not the burden

of proof) provided for an award under section 2412 of title 28, United States Code. To determine whether or not to award fees and costs under this section, the court, for good cause shown, may receive evidence ex parte and in camera (which shall include the submission of classified evidence or evidence that reveals or might reveal the identity of an informant or undercover agent or matters occurring before a grand jury) and evidence or testimony so received shall be kept under seal. Fees and other expenses awarded under this provision to a party shall be paid by the agency over which the party prevails from any funds made available to the agency by appropriation. No new appropriations shall be made as a result of this provision.

SEC. 618. None of the funds provided by this Act shall be available to promote the sale or export of tobacco or tobacco products, or to seek the reduction or removal by any foreign country of restrictions on the marketing of tobacco or tobacco products, except for restrictions which are not applied equally to all tobacco or tobacco products of the same type.

SEC. 619. None of the funds made available in this Act may be used to pay the expenses of an election officer appointed by a court to oversee an election of any officer or trustee for the International Brotherhood of Teamsters.

SEC. 620. The second proviso of the second paragraph under the heading "OFFICE OF THE CHIEF SIGNAL OFFICER." in the Act entitled "An Act Making appropriations for the support of the Regular and Volunteer Army for the fiscal year ending June thirtieth, nineteen hundred and one", approved May 26, 1900 (31 Stat. 206; chapter 586; 47 U.S.C. 17), is repealed.

SEC. 621. None of the funds appropriated or otherwise made available in this Act shall be used to issue visas to any person who—

(1) has been credibly alleged to have ordered, carried out, or materially assisted in the extrajudicial and political killings of Antoine Izmerly, Guy Malary, Father Jean-Marie Vincent, Pastor Antoine Leroy, Jacques Fleurival, Mireille Durocher Bertin, Eugene Baillergeau, Michelange Hermann, Max Mayard, Romulus Dumarsais, Claude Yves Marie, Mario Beaubrun, Leslie Grimar, Joseph Chilove, Michel Gonzalez, and Jean-Hubert Feuille;

(2) has been included in the list presented to former President Jean-Bertrand Aristide by former National Security Council Advisor Anthony Lake in December 1995, and acted upon by President Rene Preval;

(3) was sought for an interview by the Federal Bureau of Investigation as part of its inquiry into the March 28, 1995, murder of Mireille Durocher Bertin and Eugene Baillergeau, Jr., and was credibly alleged to have ordered, carried out, or materially assisted in those murders, per a June 28, 1995, letter to the then Minister of Justice of the Government of Haiti, Jean-Joseph Exume;

(4) was a member of the Haitian High Command during the period 1991 through 1994, and has been credibly alleged to have planned, ordered, or participated with members of the Haitian Armed Forces in—

(A) the September 1991 coup against any person who was a duly elected government official of Haiti (or a member of the family of such official), or

(B) the murders of thousands of Haitians during the period 1991 through 1994; or

(5) has been credibly alleged to have been a member of the paramilitary organization known as FRAPH who planned, ordered, or participated in acts of violence against the Haitian people.

(b) EXEMPTION.—Subsection (a) shall not apply if the Secretary of State finds, on a case-by-case basis, that the entry into the United

States of a person who would otherwise be excluded under this section is necessary for medical reasons or such person has cooperated fully with the investigation of these political murders. If the Secretary of State exempts any such person, the Secretary shall notify the appropriate congressional committees in writing.

(c) REPORTING REQUIREMENT.—(1) The United States chief of mission in Haiti shall provide the Secretary of State a list of those who have been credibly alleged to have ordered or carried out the extrajudicial and political killings mentioned in paragraph (1) of subsection (a).

(2) The Secretary of State shall submit the list provided under paragraph (1) to the appropriate congressional committees not later than 3 months after the date of enactment of this Act.

(3) The Secretary of State shall submit to the appropriate congressional committees a list of aliens denied visas, and the Attorney General shall submit to the appropriate congressional committees a list of aliens refused entry to the United States as a result of this provision.

(4) The Secretary of State shall submit a report under this subsection not later than 6 months after the date of enactment of this Act and not later than March 1 of each year thereafter as long as the Government of Haiti has not completed the investigation of the extrajudicial and political killings and has not prosecuted those implicated for the killings specified in paragraph (1) of subsection (a).

(d) DEFINITION.—In this section, the term "appropriate congressional committees" means the Committee on International Relations and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

SEC. 622. Section 3006 of the Balanced Budget Act of 1997 (Public Law 105-33; 111 Stat. 251, 269) is hereby repealed. This section shall be deemed a section of the Balanced Budget Act of 1997 for the purposes of section 10213 of that Act (111 Stat. 712), and shall be scored pursuant to paragraph (2) of such section.

SEC. 623. (a) REPORT ON UNIVERSAL SERVICE UNDER THE TELECOMMUNICATIONS ACT OF 1996.—The Federal Communications Commission shall undertake a review of the implementation by the Commission of the provisions of the Telecommunications Act of 1996 (Public Law 104-104) relating to universal service. Such review shall be completed and submitted to the Congress no later than April 10, 1998.

(b) The report required under subsection (a) shall provide a detailed description of the extent to which the Commission interpretations reviewed under paragraphs (1) through (5) are consistent with the plain language of the Communications Act of 1934 (47 U.S.C. 151 et seq.), as amended by the Telecommunications Act of 1996, and shall include a review of—

(1) the definitions of "information service," "local exchange carrier," "telecommunications," "telecommunications service," "telecommunications carrier," and "telephone exchange service" that were added to section 3 of the Communications Act of 1934 (47 U.S.C. 153) by the Telecommunications Act of 1996 and the impact of the Commission's interpretation of those definitions on the current and future provision of universal service to consumers in all areas of the nation, including high cost and rural areas;

(2) the application of those definitions to mixed or hybrid services and the impact of such application on universal service definitions and support, and the consistency of the Commission's application of those definitions, including with respect to Internet access under section 254(h) of the Communications Act of 1934 (47 U.S.C. 254(h));

(3) who is required to contribute to universal service under section 254(d) of the Communications Act of 1934 (47 U.S.C. 254(d)) and related

existing federal universal service support mechanisms, and of any exemption of providers or exclusion of any service that includes telecommunications from such requirement or support mechanisms;

(4) who is eligible under sections 254(e), 254(h)(1), and 254(h)(2) of the Communications Act of 1934 (47 U.S.C. 254(e), 254(h)(1), and 254(h)(2)) to receive specific federal universal service support for the provision of universal service, and the consistency with which the Commission has interpreted each of those provisions of section 254; and

(5) the Commission's decisions regarding the percentage of universal service support provided by federal mechanisms and the revenue base from which such support is derived.

SEC. 624. Section 6(d)(1) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 955(d)(1)) is amended by striking the word "fourteen" and inserting in lieu thereof "eight".

SEC. 625. (a) Section 814(g)(1) of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (22 U.S.C. 2291 note) is amended by striking "\$325,000" and inserting "\$370,000".

(b) Section 814(i) of such section is amended by striking "September 30, 1997" and inserting "September 30, 1999".

SEC. 626. In addition to amounts otherwise made available for payment of obligations in carrying out 49 U.S.C. 5338(a), \$50,000,000 shall remain available until expended and to be derived from the Highway Trust Fund: Provided, That \$50,000,000 shall be paid from the Mass Transit Account of the Highway Trust Fund to the Federal Transit Administration's formula grants account: Provided further, That subsection (c) of section 337 of the Department of Transportation and Related Agencies Appropriations Act, 1998 is amended by inserting after "House and Senate Committees on Appropriations", the following: "and the Senate Committee on Commerce, Science, and Transportation".

SEC. 627. (a) Section 501(c)(4) of the District of Columbia Police and Firemen's Act of 1958, (District of Columbia Code, section 4-416(c)(4)), is amended by striking "locality pay" and inserting "longevity pay".

(b) The amendment made by section (a) is effective on the date of enactment of Public Law 105-61.

SEC. 628. Section 19(a) of the Indian Gaming Regulatory Act (25 U.S.C. 2718(a)) is amended to read as follows:

"(a) Subject to section 18, there are authorized to be appropriated, for fiscal year 1998, and for each fiscal year thereafter, an amount equal to the amount of funds derived from the assessments authorized by section 18(a)."

SEC. 629. (a) IN GENERAL.—The Secretary of Energy shall—

(1) convey, without consideration, to the Incorporated County of Los Alamos, New Mexico (in this section referred to as the "County"), or to the designee of the County, fee title to the parcels of land that are allocated for conveyance to the County in the agreement under subsection (e); and

(2) transfer to the Secretary of the Interior, in trust for the Pueblo of San Ildefonso (in this section referred to as the "Pueblo"), administrative jurisdiction over the parcels that are allocated for transfer to the Secretary of the Interior in such agreement.

(b) PRELIMINARY IDENTIFICATION OF PARCELS OF LAND FOR CONVEYANCE OR TRANSFER.—(1) Not later than 90 days after the date of enactment of this Act, the Secretary of Energy shall submit to the congressional defense committees a report identifying the parcels of land under the jurisdiction or administrative control of the Secretary at or in the vicinity of Los Alamos Na-

tional Laboratory that are suitable for conveyance or transfer under this section.

(2) A parcel is suitable for conveyance or transfer for purposes of paragraph (1) if the parcel—

(A) is not required to meet the national security mission of the Department of Energy or will not be required for that purpose before the end of the 10-year period beginning on the date of enactment of this Act;

(B) is likely to be conveyable or transferable, as the case may be, under this section not later than the end of such period; and

(C) is suitable for use for a purpose specified in subsection (h).

(c) REVIEW OF TITLE.—(1) Not later than one year after the date of enactment of this Act, the Secretary shall submit to the congressional defense committees a report setting forth the results of a title search on each parcel of land identified as suitable for conveyance or transfer under subsection (b), including an analysis of any claims against or other impairments to the fee title to each such parcel.

(2) In the period beginning on the date of the completion of the title search with respect to a parcel under paragraph (1) and ending on the date of the submittal of the report under that paragraph, the Secretary shall take appropriate actions to resolve the claims against or other impairments, if any, to fee title that are identified with respect to the parcel in the title search.

(d) ENVIRONMENTAL RESTORATION.—(1) Not later than 21 months after the date of enactment of this Act, the Secretary shall—

(A) identify the environmental restoration or remediation, if any, that is required with respect to each parcel of land identified under subsection (b) to which the United States has fee title;

(B) carry out any review of the environmental impact of the conveyance or transfer of each such parcel that is required under the provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(C) submit to Congress a report setting forth the results of the activities under subparagraphs (A) and (B).

(2) If the Secretary determines under paragraph (1) that a parcel described in paragraph (1)(A) requires environmental restoration or remediation, the Secretary shall, to the maximum extent practicable, complete the environmental restoration or remediation of the parcel not later than 10 years after the date of enactment of this Act.

(e) AGREEMENT FOR ALLOCATION OF PARCELS.—As soon as practicable after completing the review of titles to parcels of land under subsection (c), but not later than 90 days after the submittal of the report under subsection (d)(1)(C), the County and the Pueblo shall submit to the Secretary an agreement between the County and the Pueblo which allocates between the County and the Pueblo the parcels identified for conveyance or transfer under subsection (b).

(f) PLAN FOR CONVEYANCE AND TRANSFER.—(1) Not later than 90 days after the date of the submittal to the Secretary of Energy of the agreement under subsection (e), the Secretary shall submit to the congressional defense committees a plan for conveying or transferring parcels of land under this section in accordance with the allocation specified in the agreement.

(2) The plan under paragraph (1) shall provide for the completion of the conveyance or transfer of parcels under this section not later than 9 months after the date of the submittal of the plan under that paragraph.

(g) CONVEYANCE OR TRANSFER.—(1) Subject to paragraphs (2) and (3), the Secretary shall convey or transfer parcels of land in accordance with the allocation specified in the agreement submitted to the Secretary under subsection (e).

(2) In the case of a parcel allocated under the agreement that is not available for conveyance or transfer in accordance with the requirement in subsection (f)(2) by reason of its requirement to meet the national security mission of the Department, the Secretary shall convey or transfer the parcel, as the case may be, when the parcel is no longer required for that purpose.

(3)(A) In the case of a parcel allocated under the agreement that is not available for conveyance or transfer in accordance with such requirement by reason of requirements for environmental restoration or remediation, the Secretary shall convey or transfer the parcel, as the case may be, upon the completion of the environmental restoration or remediation that is required with respect to the parcel.

(B) If the Secretary determines that environmental restoration or remediation cannot reasonably be expected to be completed with respect to a parcel by the end of the 10-year period beginning on the date of enactment of this Act, the Secretary shall not convey or transfer the parcel under this section.

(h) USE OF CONVEYED OR TRANSFERRED LAND.—The parcels of land conveyed or transferred under this section shall be used for historic, cultural, or environmental preservation purposes, economic diversification purposes, or community self-sufficiency purposes.

(i) TREATMENT OF CONVEYANCES AND TRANSFERS.—(1) The purpose of the conveyances and transfers under this section is to fulfill the obligations of the United States with respect to Los Alamos National Laboratory, New Mexico, under sections 91 and 94 of the Atomic Energy Community Act of 1955 (42 U.S.C. 2391, 2394).

(2) Upon the completion of the conveyance or transfer of the parcels of land available for conveyance or transfer under this section, the Secretary shall make no further payments with respect to Los Alamos National Laboratory under section 91 or section 94 of the Atomic Energy Community Act of 1955.

(j) REPEAL OF SUPERSEDED PROVISION.—In the event of the enactment of the National Defense Authorization Act for Fiscal Year 1998 by reason of the approval of the President of the conference report to accompany the bill (H.R.1119) of the 105th Congress, section 3165 of such Act is repealed.

SEC. 630. (a) Section 6906 of title 31, United States Code, is amended—

(1) by inserting "(a) IN GENERAL.—" before "Necessary"; and

(2) by adding at the end the following: "(b) LOCAL EXEMPTIONS FROM USER FEES DUE TO INSUFFICIENT APPROPRIATIONS.—"

"(1) IN GENERAL.—Unless sufficient funds are appropriated for a fiscal year to provide full payments under this chapter to each unit of general local government that lies in whole or in part within the White Mountain National Forest and is eligible for the payments, persons residing within the boundaries of that unit of general local government shall be exempt during that fiscal year from any requirement to pay a Demonstration Program Fee (parking permit or passport) imposed by the Secretary of Agriculture for access to the Forest.

"(2) ADMINISTRATION.—The Secretary of Agriculture shall establish a method of identifying persons who are exempt from requirements to pay user fees under paragraph (1)."

SEC. 631. Section 512(b) of Public Law 105-61 is amended by adding before the period: "unless the President announced his intent to nominate the individual prior to November 30, 1997".

SEC. 632. Transfers of Unobligated Highway Apportionments. (a) IN GENERAL.—Notwithstanding any other provision of law, for fiscal year 1998, a State may transfer any funds apportioned to the State for any program under section 104 (including amounts apportioned

under section 104(b)(3) or set aside or suballotted under section 133(d), 144, or 402 of title 23, United States Code, granted to the State for any program under section 410 of that title, or allocated to the State for any program under chapter 311 of title 49, United States Code, that are subject to any limitation on obligations, and that are not obligated, to any other of those programs.

(b) **TREATMENT OF TRANSFERRED FUNDS.**—Any funds transferred to another program under subsection (a) shall be subject to the provisions of the program to which the funds are transferred, except that funds transferred to the surface transportation program under section 133 of title 23, United States Code, other than paragraphs (1) and (2) of section 133(d) of that title, shall not be subject to section 133(d) of that title.

(c) **RESTORATION OF APPORTIONMENTS.**—

(1) **IN GENERAL.**—As soon as practicable after the date of enactment of a law reauthorizing the Federal-aid highway program enacted after the date of enactment of this Act, the Secretary of Transportation (referred to in this section as the "Secretary") shall restore any funds that a State transferred under subsection (a) for any project not eligible for the funds but for this section to the program category from which the funds were transferred.

(2) **PROGRAM CATEGORY RECONCILIATION.**—The Secretary may establish procedures under which funds transferred under subsection (a) from a program category for which funds are no longer authorized may be restored to the Federal-aid highway program.

(d) **LIMITATION ON OBLIGATIONS.**—

(1) **IN GENERAL.**—The Secretary shall allocate to a State an amount of obligation authority made available under the Department of Transportation and Related Agencies Appropriations Act, 1998 (Public Law 105-66; 111 Stat. 1425), that is not greater than 75 percent of the State's total fiscal year 1997 obligation authority for funds apportioned to the Federal-aid highway program until the earlier of—

(A) such time as a multiyear law reauthorizing the Federal-aid highway program has been enacted; or

(B) July 1, 1998.

(2) **CONTRACT AUTHORITY.**—No contract authority made available to the States before July 1, 1998, shall be obligated after that date until such time as a multiyear law reauthorizing the Federal-aid highway program has been enacted.

(e) **GUIDANCE.**—The Secretary may issue guidance for use in carrying out this section.

**SEC. 633. ADMINISTRATIVE EXPENSES FOR FEDERAL-AID HIGHWAY PROGRAM AND BUREAU OF TRANSPORTATION STATISTICS.** (a) **AUTHORITY TO BORROW.**—

(1) **FROM UNOBLIGATED FUNDS AVAILABLE FOR DISCRETIONARY ALLOCATIONS.**—If unobligated balances of funds deducted by the Secretary of Transportation (referred to in this section as the "Secretary") under section 104(a) of title 23, United States Code, for administrative and research expenses of the Federal-aid highway program are insufficient to pay those expenses and the amounts necessary for operation of the Bureau of Transportation Statistics for fiscal year 1998, the Secretary may borrow to pay those expenses and amounts not to exceed \$211,000,000 from unobligated funds available to the Secretary for discretionary allocations.

(2) **FROM CERTAIN UNOBLIGATED BALANCES.**—If unobligated funds available to the Secretary for discretionary allocations are insufficient for the purposes described in paragraph (1), the Secretary may borrow for those purposes not to exceed \$211,000,000 from the unobligated balances of funds apportioned or allocated to the States for the Federal-aid highway program.

(b) **REQUIREMENT TO REIMBURSE.**—Funds borrowed under subsection (a) shall be reimbursed

from amounts made available to the Secretary under section 104(a) of title 23, United States Code, as soon as practicable after the date of enactment of a law reauthorizing the Federal-aid highway program enacted after the date of enactment of this Act.

**SEC. 634. EXTENSION OF FEDERAL TRANSIT PROGRAMS.** (a) Title III of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2087-2140) is amended by adding at the end the following:

**"SEC. 3049. EXTENSION OF FEDERAL TRANSIT PROGRAMS FOR THE PERIOD OF OCTOBER 1, 1997, THROUGH MARCH 31, 1998.**

"(a) **ALLOCATING AMOUNTS.**—Section 5309(m)(1) of title 49, United States Code, is amended by inserting ', and for the period of October 1, 1997, through March 31, 1998' after '1997'.

"(b) **APPORTIONMENT OF APPROPRIATIONS FOR FIXED GUIDEWAY MODERNIZATION.**—Section 5337 of title 49, United States Code, is amended—

"(1) in subsection (a), by inserting 'and for the period of October 1, 1997, through March 31, 1998,' after '1997'; and

"(2) by adding at the end the following:

"(e) **SPECIAL RULE FOR OCTOBER 1, 1997, THROUGH MARCH 31, 1998.**—The Secretary shall determine the amount that each urbanized area is to be apportioned for fixed guideway modernization under this section on a pro rata basis to reflect the partial fiscal year 1998 funding made available by section 5338(b)(1)(F)."

"(c) **AUTHORIZATIONS.**—Section 5338 of title 49, United States Code, is amended—

"(1) in subsection (a)—

"(A) in paragraph (1), by adding at the end the following:

"(F) \$1,349,395,000 for the period of October 1, 1997, through March 31, 1998.'; and

"(B) in paragraph (2), by adding at the end the following:

"(F) \$369,000,000 for the period of October 1, 1997, through March 31, 1998.';

"(2) in subsection (b)(1), by adding at the end the following:

"(F) \$1,110,605,000 for the period of October 1, 1997, through March 31, 1998.';

"(3) in subsection (c), by inserting 'and not more than \$1,500,000 for the period of October 1, 1997, through March 31, 1998,' after '1997';

"(4) in subsection (e), by inserting 'and not more than \$3,000,000 is available from the Fund (except the Account) for the Secretary for the period of October 1, 1997, through March 31, 1998,' after '1997';

"(5) in subsection (h)(3), by inserting 'and \$3,000,000 is available for section 5317 for the period of October 1, 1997, through March 31, 1998' after '1997';

"(6) in subsection (j)(5)—

"(A) in subparagraph (B), by striking 'and' at the end;

"(B) in subparagraph (C), by striking the period at the end and inserting '; and'; and

"(C) by adding at the end the following:

"(D) the lesser of \$1,500,000 or an amount that the Secretary determines is necessary is available to carry out section 5318 for the period of October 1, 1997, through March 31, 1998.';

"(7) in subsection (k), by striking 'or (e)' and inserting '(e), or (m)'; and

"(8) by adding at the end the following:

"(m) **SECTION 5316 FOR THE PERIOD OF OCTOBER 1, 1997, THROUGH MARCH 31, 1998.**—Not more than the following amounts may be appropriated to the Secretary from the Fund (except the Account) for the period of October 1, 1997, through March 31, 1998:

"(1) \$125,000 to carry out section 5316(a).

"(2) \$1,500,000 to carry out section 5316(b).

"(3) \$500,000 to carry out section 5316(c).

"(4) \$500,000 to carry out section 5316(d).

"(5) \$500,000 to carry out section 5316(e).'"

(b) **BUDGET SCOREKEEPING.**—For purposes of the Congressional Budget Act of 1974, as amended, the Balanced Budget and Emergency Deficit Control Act, as amended, and the Budget Enforcement Act of 1997, as amounts provided or otherwise made available in this section shall be treated as "direct spending" in an authorization Act.

## TITLE VII—RESCISSIONS

### DEPARTMENT OF JUSTICE

#### GENERAL ADMINISTRATION

##### WORKING CAPITAL FUND

###### (RESCISSION)

Of the unobligated balances available under this heading on September 30, 1997, \$100,000,000 are rescinded.

## TITLE VIII—EMERGENCY SUPPLEMENTAL APPROPRIATIONS

### NATIONAL OCEANIC AND ATMOSPHERIC

#### ADMINISTRATION

##### OPERATIONS, RESEARCH, AND FACILITIES

For an additional amount for "Operations, Research, and Facilities"; for emergency expenses to provide disaster assistance pursuant to section 312(a) of the Magnuson-Stevens Fishery Conservation and Management Act for the Bristol Bay and Kuskokwim areas of Alaska, \$7,000,000 to remain available until expended: Provided, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent that the Secretary of Commerce transmits a determination that there is a commercial fishery failure.

This division may be cited as the "Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998".

## DIVISION C—FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 1998

The following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1998, and for other purposes, to be effective as if it had been enacted into law as the regular appropriations Act, namely:

### TITLE I—EXPORT AND INVESTMENT ASSISTANCE

#### EXPORT-IMPORT BANK OF THE UNITED STATES

The Export-Import Bank of the United States is authorized to make such expenditures within the limits of funds and borrowing authority available to such corporation, and in accordance with law, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 104 of the Government Corporation Control Act, as may be necessary in carrying out the program for the current fiscal year for such corporation: Provided, That none of the funds available during the current fiscal year may be used to make expenditures, contracts, or commitments for the export of nuclear equipment, fuel, or technology to any country other than a nuclear-weapon State as defined in Article IX of the Treaty on the Non-Proliferation of Nuclear Weapons eligible to receive economic or military assistance under this Act that has detonated a nuclear explosive after the date of enactment of this Act.

#### SUBSIDY APPROPRIATION

For the cost of direct loans, loan guarantees, insurance, and tied-aid grants as authorized by section 10 of the Export-Import Bank Act of 1945, as amended, \$683,000,000 to remain available until September 30, 2001: Provided, That

such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: Provided further, That such sums shall remain available until 2013 for the disbursement of direct loans, loan guarantees, insurance and tied-aid grants obligated in fiscal years 1998 and 1999: Provided further, That up to \$50,000,000 of funds appropriated by this paragraph shall remain available until expended and may be used for tied-aid grant purposes: Provided further, That none of the funds appropriated by this Act or any prior Act appropriating funds for foreign operations, export financing, or related programs for tied-aid credits or grants may be used for any other purpose except through the regular notification procedures of the Committees on Appropriations: Provided further, That funds appropriated by this paragraph are made available notwithstanding section 2(b)(2) of the Export-Import Bank Act of 1945, in connection with the purchase or lease of any product by any East European country, any Baltic State, or any agency or national thereof.

#### ADMINISTRATIVE EXPENSES

For administrative expenses to carry out the direct and guaranteed loan and insurance programs (to be computed on an accrual basis), including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, and not to exceed \$20,000 for official reception and representation expenses for members of the Board of Directors, \$48,614,000: Provided, That necessary expenses (including special services performed on a contract or fee basis, but not including other personal services) in connection with the collection of moneys owed the Export-Import Bank, repossession or sale of pledged collateral or other assets acquired by the Export-Import Bank in satisfaction of moneys owed the Export-Import Bank, or the investigation or appraisal of any property, or the evaluation of the legal or technical aspects of any transaction for which an application for a loan, guarantee or insurance commitment has been made, shall be considered nonadministrative expenses for the purposes of this heading: Provided further, That, notwithstanding subsection (b) of section 117 of the Export Enhancement Act of 1992, subsection (a) thereof shall remain in effect until October 1, 1998.

#### OVERSEAS PRIVATE INVESTMENT CORPORATION NONCREDIT ACCOUNT

The Overseas Private Investment Corporation is authorized to make, without regard to fiscal year limitations, as provided by 31 U.S.C. 9104, such expenditures and commitments within the limits of funds available to it and in accordance with law as may be necessary: Provided, That the amount available for administrative expenses to carry out the credit and insurance programs (including an amount for official reception and representation expenses which shall not exceed \$35,000) shall not exceed \$32,000,000: Provided further, That project-specific transaction costs, including direct and indirect costs incurred in claims settlements, and other direct costs associated with services provided to specific investors or potential investors pursuant to section 234 of the Foreign Assistance Act of 1961, shall not be considered administrative expenses for the purposes of this heading.

#### PROGRAM ACCOUNT

For the cost of direct and guaranteed loans, \$60,000,000, as authorized by section 234 of the Foreign Assistance Act of 1961 to be derived by transfer from the Overseas Private Investment Corporation noncredit account: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: Provided further, That such sums shall be available for direct loan obligations and loan guaranty commit-

ments incurred or made during fiscal years 1998 and 1999: Provided further, That such sums shall remain available through fiscal year 2006 for the disbursement of direct and guaranteed loans obligated in fiscal year 1998, and through fiscal year 2007 for the disbursement of direct and guaranteed loans obligated in fiscal year 1999: Provided further, That in addition, such sums as may be necessary for administrative expenses to carry out the credit program may be derived from amounts available for administrative expenses to carry out the credit and insurance programs in the Overseas Private Investment Corporation Noncredit Account and merged with said account.

#### FUNDS APPROPRIATED TO THE PRESIDENT TRADE AND DEVELOPMENT AGENCY

For necessary expenses to carry out the provisions of section 661 of the Foreign Assistance Act of 1961, \$41,500,000, to remain available until September 30, 1999: Provided, That the Trade and Development Agency may receive reimbursements from corporations and other entities for the costs of grants for feasibility studies and other project planning services, to be deposited as an offsetting collection to this account and to be available for obligation until September 30, 1999, for necessary expenses under this paragraph: Provided further, That such reimbursements shall not cover, or be allocated against, direct or indirect administrative costs of the agency.

#### TITLE II—BILATERAL ECONOMIC ASSISTANCE

##### FUNDS APPROPRIATED TO THE PRESIDENT

For expenses necessary to enable the President to carry out the provisions of the Foreign Assistance Act of 1961, and for other purposes, to remain available until September 30, 1998, unless otherwise specified herein, as follows:

##### AGENCY FOR INTERNATIONAL DEVELOPMENT CHILD SURVIVAL AND DISEASE PROGRAMS FUND

For necessary expenses to carry out the provisions of chapters 1 and 10 of part I of the Foreign Assistance Act of 1961, for child survival, basic education, assistance to combat tropical and other diseases, and related activities, in addition to funds otherwise available for such purposes, \$650,000,000, to remain available until expended: Provided, That this amount shall be made available for such activities as: (1) immunization programs; (2) oral rehydration programs; (3) health and nutrition programs, and related education programs, which address the needs of mothers and children; (4) water and sanitation programs; (5) assistance for displaced and orphaned children; (6) programs for the prevention, treatment, and control of, and research on, tuberculosis, HIV/AIDS, polio, malaria and other diseases; (7) up to \$98,000,000 for basic education programs for children; and (8) a contribution on a grant basis to the United Nations Children's Fund (UNICEF) pursuant to section 301 of the Foreign Assistance Act of 1961.

##### AGENCY FOR INTERNATIONAL DEVELOPMENT DEVELOPMENT ASSISTANCE (INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out the provisions of sections 103 through 106 and chapter 10 of part I of the Foreign Assistance Act of 1961, title V of the International Security and Development Cooperation Act of 1980 (Public Law 96-533) and the provisions of section 401 of the Foreign Assistance Act of 1969, \$1,210,000,000, to remain available until September 30, 1999: Provided, That of the amount appropriated under this heading, up to \$22,000,000 may be made available for the Inter-American Foundation and shall be apportioned directly to that Agency: Provided further, That of the amount appropriated under this heading, up to \$14,000,000 may be made available for the African Develop-

ment Foundation and shall be apportioned directly to that agency: Provided further, That none of the funds made available in this Act nor any unobligated balances from prior appropriations may be made available to any organization or program which, as determined by the President of the United States, supports or participates in the management of a program of coercive abortion or involuntary sterilization: Provided further, That none of the funds made available under this heading may be used to pay for the performance of abortion as a method of family planning or to motivate or coerce any person to practice abortions; and that in order to reduce reliance on abortion in developing nations, funds shall be available only to voluntary family planning projects which offer, either directly or through referral to, or information about access to, a broad range of family planning methods and services: Provided further, That in awarding grants for natural family planning under section 104 of the Foreign Assistance Act of 1961 no applicant shall be discriminated against because of such applicant's religious or conscientious commitment to offer only natural family planning; and, additionally, all such applicants shall comply with the requirements of the previous proviso: Provided further, That for purposes of this or any other Act authorizing or appropriating funds for foreign operations, export financing, and related programs, the term "motivate", as it relates to family planning assistance, shall not be construed to prohibit the provision, consistent with local law, of information or counseling about all pregnancy options: Provided further, That nothing in this paragraph shall be construed to alter any existing statutory prohibitions against abortion under section 104 of the Foreign Assistance Act of 1961: Provided further, That notwithstanding section 109 of the Foreign Assistance Act of 1961, of the funds appropriated under this heading in this Act, and of the unobligated balances of funds previously appropriated under this heading, not to exceed \$2,500,000 shall be transferred to "International Organizations and Programs" for a contribution to the International Fund for Agricultural Development (IFAD), and that any such transfer of funds shall be subject to the regular notification procedures of the Committees on Appropriations: Provided further, That of the funds appropriated under this heading that are made available for assistance programs for displaced and orphaned children and victims of war, not to exceed \$25,000, in addition to funds otherwise available for such purposes, may be used to monitor and provide oversight of such programs: Provided further, That none of the funds made available under this heading may be used for any activity which is in contravention to the Convention on International Trade in Endangered Species of Flora and Fauna (CITES).

##### PRIVATE AND VOLUNTARY ORGANIZATIONS

None of the funds appropriated or otherwise made available by this Act for development assistance may be made available to any United States private and voluntary organization, except any cooperative development organization, which obtains less than 20 per centum of its total annual funding for international activities from sources other than the United States Government: Provided, That the requirements of the provisions of section 123(g) of the Foreign Assistance Act of 1961 and the provisions on private and voluntary organizations in title II of the "Foreign Assistance and Related Programs Appropriations Act, 1985" (as enacted in Public Law 98-473) shall be superseded by the provisions of this section, except that the authority contained in the last sentence of section 123(g) may be exercised by the Administrator with regard to the requirements of this paragraph.

Funds appropriated or otherwise made available under title II of this Act should be made

available to private and voluntary organizations at a level which is at least equivalent to the level provided in fiscal year 1995. Such private and voluntary organizations shall include those which operate on a not-for-profit basis, receive contributions from private sources, receive voluntary support from the public and are deemed to be among the most cost-effective and successful providers of development assistance.

#### CYPRUS

Of the funds appropriated under the headings "Development Assistance" and "Economic Support Fund", not less than \$15,000,000 shall be made available for Cyprus to be used only for scholarships, administrative support of the scholarship program, bicomunal projects, and measures aimed at reunification of the island and designed to reduce tensions and promote peace and cooperation between the two communities on Cyprus.

#### BURMA

Of the funds appropriated under the headings "Development Assistance" and "Economic Support Fund", not less than \$5,000,000 shall be made available to support activities in Burma, along the Burma-Thailand border, and for activities of Burmese student groups and other organizations located outside Burma: Provided, That funds made available for Burma related activities under this heading may be made available notwithstanding any other provision of law: Provided further, That provision of such funds shall be made available subject to the regular notification procedures of the Committees on Appropriations.

#### CAMBODIA

None of the funds appropriated in this Act may be made available for the Government of Cambodia: Provided, That the restrictions under this heading shall not apply to humanitarian, demining or election-related programs or activities: Provided further, That such funds shall be subject to the regular notification procedures of the Committees on Appropriations: Provided further, That 30 days after enactment of this Act, the President shall report to the Committees on Appropriations on the results of the FBI investigation into the bombing attack in Phnom Penh on March 30, 1997.

#### INTERNATIONAL DISASTER ASSISTANCE

For necessary expenses for international disaster relief, rehabilitation, and reconstruction assistance pursuant to section 491 of the Foreign Assistance Act of 1961, as amended, \$190,000,000, to remain available until expended.

#### DEBT RESTRUCTURING

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, of modifying direct loans and loan guarantees, as the President may determine, for which funds have been appropriated or otherwise made available for programs within the International Affairs Budget Function 150, including the cost of selling, reducing, or canceling amounts, through debt buybacks and swaps, owed to the United States as a result of concessional loans made to eligible Latin American and Caribbean countries, pursuant to part IV of the Foreign Assistance Act of 1961; of modifying concessional loans extended to least developed countries, as authorized under section 411 of the Agricultural Trade Development and Assistance Act of 1954, as amended; and of modifying any obligation, or portion of such obligation for Latin American countries to pay for purchases of United States agricultural commodities guaranteed by the Commodity Credit Corporation under export credit guarantee programs authorized pursuant to section 5(f) of the Commodity Credit Corporation Charter Act of June 29, 1948, as amended, section 4(b) of the Food for Peace Act of 1966, as amended (Public Law 89-808), or section 202 of the Agricultural Trade Act of 1978, as amended

(Public Law 95-501); \$27,000,000, to remain available until expended: Provided, That not to exceed \$1,500,000 of such funds may be used for implementation of improvements in the foreign credit reporting system of the United States government.

#### MICRO AND SMALL ENTERPRISE DEVELOPMENT PROGRAM ACCOUNT

For the cost of direct loans and loan guarantees, \$1,500,000, as authorized by section 108 of the Foreign Assistance Act of 1961, as amended: Provided, That such costs shall be as defined in section 502 of the Congressional Budget Act of 1974: Provided further, That guarantees of loans made under this heading in support of micro-enterprise activities may guarantee up to 70 percent of the principal amount of any such loans notwithstanding section 108 of the Foreign Assistance Act of 1961. In addition, for administrative expenses to carry out programs under this heading, \$500,000, all of which may be transferred to and merged with the appropriation for Operating Expenses of the Agency for International Development: Provided further, That funds made available under this heading shall remain available until September 30, 1999.

#### URBAN AND ENVIRONMENTAL CREDIT PROGRAM ACCOUNT

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, of guaranteed loans authorized by sections 221 and 222 of the Foreign Assistance Act of 1961, including the cost of guaranteed loans designed to promote the urban and environmental policies and objectives of part I of such Act, \$3,000,000, to remain available until September 30, 1999: Provided, That these funds are available to subsidize loan principal, 100 percent of which shall be guaranteed, pursuant to the authority of such sections. In addition, for administrative expenses to carry out guaranteed loan programs, \$6,000,000, all of which may be transferred to and merged with the appropriation for Operating Expenses of the Agency for International Development: Provided further, That commitments to guarantee loans under this heading may be entered into notwithstanding the second and third sentences of section 222(a) and, with regard to programs for Central and Eastern Europe and programs for the benefit of South Africans disadvantaged by apartheid, section 223(j) of the Foreign Assistance Act of 1961.

#### PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For payment to the "Foreign Service Retirement and Disability Fund", as authorized by the Foreign Service Act of 1980, \$44,208,000.

#### OPERATING EXPENSES OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT

For necessary expenses to carry out the provisions of section 667, \$473,000,000: Provided, That none of the funds appropriated by this Act for programs administered by the Agency for International Development may be used to finance printing costs of any report or study (except feasibility, design, or evaluation reports or studies) in excess of \$25,000 without the approval of the Administrator of the Agency or the Administrator's designee.

#### OPERATING EXPENSES OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT OFFICE OF INSPECTOR GENERAL

For necessary expenses to carry out the provisions of section 667, \$29,047,000, to remain available until September 30, 1999, which sum shall be available for the Office of the Inspector General of the Agency for International Development.

#### OTHER BILATERAL ECONOMIC ASSISTANCE ECONOMIC SUPPORT FUND

For necessary expenses to carry out the provisions of chapter 4 of part II, \$2,400,000,000, to remain available until September 30, 1999: Pro-

vided, That of the funds appropriated under this heading, not less than \$1,200,000,000 shall be available only for Israel, which sum shall be available on a grant basis as a cash transfer and shall be disbursed within thirty days of enactment of this Act or by October 31, 1997, whichever is later: Provided further, That not less than \$815,000,000 shall be available only for Egypt, which sum shall be provided on a grant basis, and of which sum cash transfer assistance may be provided, with the understanding that Egypt will undertake significant economic reforms which are additional to those which were undertaken in previous fiscal years: Provided further, That in exercising the authority to provide cash transfer assistance for Israel, the President shall ensure that the level of such assistance does not cause an adverse impact on the total level of nonmilitary exports from the United States to such country: Provided further, That of the funds appropriated under this heading, not less than \$150,000,000 shall be made available for Jordan: Provided further, That of the funds made available under this heading in previous Acts making appropriations for foreign operations, export financing, and related programs, notwithstanding any provision in any such heading in such previous Acts, up to \$116,000,000 may be allocated or made available for programs and activities under this heading including the Middle East Peace and Stability Fund: Provided further, That in carrying out the previous proviso, the President should seek to ensure to the extent feasible that not more than 1 percent of the amount specified in section 586 of this Act should be derived from funds that would otherwise be made available for any single country: Provided further, That funds provided for the Middle East Peace and Stability Fund by a country in the region under the authority of section 635(d) of the Foreign Assistance Act of 1961, and funds made available for Jordan following the date of enactment of this Act from previous Acts making appropriations for foreign operations, export financing, and related programs, shall count toward meeting the earmark contained in the fourth proviso under this heading: Provided further, That up to \$10,000,000 of funds under this heading in previous foreign operations, export financing, and related programs appropriations Acts that were reprogrammed for Jordan during fiscal year 1997 shall also count toward such earmark: Provided further, That, in order to facilitate the implementation of the fourth proviso under this heading, the requirement of section 515 of this Act or any similar provision of law shall not apply to the making available of funds appropriated for a fiscal year for programs, projects, or activities that were justified for another fiscal year: Provided further, That for fiscal year 1998 such portions of the notification required under section 653 of the Foreign Assistance Act of 1961 that relate to the Middle East may be submitted to the Congress as soon as practicable, but no later than March 1, 1998: Provided further, That during fiscal year 1998, of the local currencies generated from funds made available under this heading for Guatemala by this Act and prior Appropriations Acts, the United States and Guatemala may jointly program the Guatemala quetzales equivalent of a total of up to \$10,000,000 for the purpose of retiring the debt owed by universities in Guatemala to the Inter-American Development Bank.

#### INTERNATIONAL FUND FOR IRELAND

For necessary expenses to carry out the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961, \$19,600,000, which shall be available for the United States contribution to the International Fund for Ireland and shall be made available in accordance with the provisions of the Anglo-Irish Agreement Support Act of 1986 (Public Law 99-415): Provided, That

such amount shall be expended at the minimum rate necessary to make timely payment for projects and activities: Provided further, That funds made available under this heading shall remain available until September 30, 1999.

ASSISTANCE FOR EASTERN EUROPE AND THE  
BALTIC STATES

(a) For necessary expenses to carry out the provisions of the Foreign Assistance Act of 1961 and the Support for East European Democracy (SEED) Act of 1989, \$485,000,000, to remain available until September 30, 1999, which shall be available, notwithstanding any other provision of law, for economic assistance and for related programs for Eastern Europe and the Baltic States.

(b) Funds appropriated under this heading or in prior appropriations Acts that are or have been made available for an Enterprise Fund may be deposited by such Fund in interest-bearing accounts prior to the Fund's disbursement of such funds for program purposes. The Fund may retain for such program purposes any interest earned on such deposits without returning such interest to the Treasury of the United States and without further appropriation by the Congress. Funds made available for Enterprise Funds shall be expended at the minimum rate necessary to make timely payment for projects and activities.

(c) Funds appropriated under this heading shall be considered to be economic assistance under the Foreign Assistance Act of 1961 for purposes of making available the administrative authorities contained in that Act for the use of economic assistance.

(d) None of the funds appropriated under this heading may be made available for new housing construction or repair or reconstruction of existing housing in Bosnia and Herzegovina unless directly related to the efforts of United States troops to promote peace in said country.

(e) With regard to funds appropriated or otherwise made available under this heading for the economic revitalization program in Bosnia and Herzegovina, and local currencies generated by such funds (including the conversion of funds appropriated under this heading into currency used by Bosnia and Herzegovina as local currency and local currency returned or repaid under such program)—

(1) the Administrator of the Agency for International Development shall provide written approval for grants and loans prior to the obligation and expenditure of funds for such purposes, and prior to the use of funds that have been returned or repaid to any lending facility or grantee; and

(2) the provisions of section 532 of this Act shall apply.

(f) The President is authorized to withhold funds appropriated under this heading made available for economic revitalization programs in Bosnia and Herzegovina, if he determines and certifies to the Committees on Appropriations that the Federation of Bosnia and Herzegovina has not complied with article III of annex 1-A of the General Framework Agreement for Peace in Bosnia and Herzegovina concerning the withdrawal of foreign forces, and that intelligence cooperation on training, investigations, and related activities between Iranian officials and Bosnian officials has not been terminated.

(g) Not to exceed \$200,000,000 of the funds appropriated under this heading may be made available for Bosnia and Herzegovina exclusive of assistance for police training.

(h) Not to exceed \$7,000,000 of the funds made available for Bosnia and Herzegovina may be made available for the cost, as defined in section 502 of the Congressional Budget Act of 1974, of modifying direct loans and loan guarantees for said country.

ASSISTANCE FOR THE NEW INDEPENDENT STATES  
OF THE FORMER SOVIET UNION

(a) For necessary expenses to carry out the provisions of chapter 11 of part I of the Foreign Assistance Act of 1961 and the FREEDOM Support Act, for assistance for the new independent states of the former Soviet Union and for related programs, \$770,000,000, to remain available until September 30, 1999: Provided, That the provisions of such chapter shall apply to funds appropriated by this paragraph.

(b) None of the funds appropriated under this heading shall be made available to the Government of Russia—

(1) unless that Government is making progress in implementing comprehensive economic reforms based on market principles, private ownership, negotiating repayment of commercial debt, respect for commercial contracts, and equitable treatment of foreign private investment;

(2) if that Government applies or transfers United States assistance to any entity for the purpose of expropriating or seizing ownership or control of assets, investments, or ventures; and

(3) funds may be furnished without regard to this subsection if the President determines that to do so is in the national interest.

(c) None of the funds appropriated under this heading shall be made available to any government of the new independent states of the former Soviet Union if that government directs any action in violation of the territorial integrity or national sovereignty of any other new independent state, such as those violations included in the Helsinki Final Act: Provided, That such funds may be made available without regard to the restriction in this subsection if the President determines that to do so is in the national security interest of the United States: Provided further, That the restriction of this subsection shall not apply to the use of such funds for the provision of assistance for purposes of humanitarian and refugee relief.

(d) None of the funds appropriated under this heading for the new independent states of the former Soviet Union shall be made available for any state to enhance its military capability: Provided, That this restriction does not apply to demilitarization, demining, or nonproliferation programs.

(e) Funds appropriated under this heading shall be subject to the regular notification procedures of the Committees on Appropriations.

(f) Funds made available in this Act for assistance to the new independent states of the former Soviet Union shall be subject to the provisions of section 117 (relating to environment and natural resources) of the Foreign Assistance Act of 1961.

(g) Funds appropriated under title II of this Act, including funds appropriated under this heading, may be made available for assistance for Mongolia: Provided, That funds made available for assistance for Mongolia may be made available in accordance with the purposes and utilizing the authorities provided in chapter 11 of part I of the Foreign Assistance Act of 1961.

(h) In issuing new task orders, entering into contracts, or making grants, with funds appropriated under this heading or in prior appropriations Acts, for projects or activities that have as one of their primary purposes the fostering of private sector development, the Coordinator for United States Assistance to the New Independent States and the implementing agency shall encourage the participation of and give significant weight to contractors and grantees who propose investing a significant amount of their own resources (including volunteer services and in-kind contributions) in such projects and activities.

(i) Funds appropriated under this heading or in prior appropriations Acts that are or have been made available for an Enterprise Fund

may be deposited by such Fund in interest-bearing accounts prior to the disbursement of such funds by the Fund for program purposes. The Fund may retain for such program purposes any interest earned on such deposits without returning such interest to the Treasury of the United States and without further appropriation by the Congress. Funds made available for Enterprise Funds shall be expended at the minimum rate necessary to make timely payment for projects and activities.

(j)(1) Of the funds appropriated under this heading that are allocated for assistance for the Government of Russia, 50 percent shall be withheld from obligation until the President determines and certifies in writing to the Committees on Appropriations that the Government of Russia has terminated implementation of arrangements to provide Iran with technical expertise, training, technology, or equipment necessary to develop a nuclear reactor, related nuclear research facilities or programs, or ballistic missile capability.

(2) Notwithstanding paragraph (1) assistance may be provided for the Government of Russia if the President determines and certifies to the Committees on Appropriations that making such funds available (A) is vital to the national security interest of the United States, and (B) that the Government of Russia is taking meaningful steps to limit major supply contracts and to curtail the transfer of technology and technological expertise related to activities referred to in paragraph (1).

(k) Of the funds appropriated under this heading, not less than \$225,000,000 shall be made available for Ukraine, which sum shall be provided with the understanding that Ukraine will undertake significant economic reforms which are additional to those which were undertaken in the previous fiscal year: Provided, That 50 percent of the amount made available in this subsection, exclusive of funds made available for election related initiatives and nuclear reactor safety activities, shall be withheld from obligation and expenditure until the Secretary of State determines and certifies no later than April 30, 1998, that the Government of Ukraine has made significant progress toward resolving complaints made by United States investors to the United States embassy prior to April 30, 1997: Provided further, That funds made available under this subsection, and funds appropriated for Ukraine in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 as contained in Public Law 104-208 shall be made available to complete the preparation of safety analysis reports at each nuclear reactor in Ukraine over the next three years.

(l) Of the funds appropriated under this heading, not less than \$250,000,000 shall be made available for assistance for the Southern Caucasus region: Provided, That of the funds provided under this subsection 37 percent shall be made available for Georgia and 35 percent shall be made available for Armenia: Provided further, That of the funds made available for the Southern Caucasus region, 28 percent should be used for reconstruction and remedial activities relating to the consequences of conflicts within the region, especially those in the vicinity of Abkhazia and Nagorno-Karabakh: Provided further, That if the Secretary of State after May 30, 1998, determines and reports to the relevant Committees of Congress that the full amount of reconstruction and remedial funds that may be made available under the previous proviso cannot be effectively utilized, up to 62.5 percent of the amount provided under the previous proviso for reconstruction and remediation may be used for other purposes under this heading.

(m) Funds provided under the previous subsection shall be made available for humanitarian assistance for refugees, displaced persons, and needy civilians affected by the conflicts in the Southern Caucasus region, including those in the vicinity of Abkhazia and Nagorno-Karabakh, notwithstanding any other provision of this or any other Act.

(n) Funds made available under this Act or any other Act may not be provided for assistance to the Government of Azerbaijan until the President determines, and so reports to the Congress, that the Government of Azerbaijan is taking demonstrable steps to cease all blockades against Armenia and Nagorno-Karabakh: Provided, That the restriction of this subsection and section 907 of the FREEDOM Support Act shall not apply to—

(1) activities to support democracy or assistance under title V of the FREEDOM Support Act and section 1424 of Public Law 104-201;

(2) any assistance provided by the Trade and Development Agency under section 661 of the Foreign Assistance Act of 1961 (22 U.S.C. 2421); and

(3) any activity carried out by a member of the United States and Foreign Commercial Service while acting within his or her official capacity.

(o) None of the funds appropriated under this heading or in prior appropriations legislation may be made available to establish a joint public-private entity or organization engaged in the management of activities or projects supported by the Defense Enterprise Fund.

#### INDEPENDENT AGENCY

##### PEACE CORPS

For expenses necessary to carry out the provisions of the Peace Corps Act (75 Stat. 612), \$222,000,000, including the purchase of not to exceed five passenger motor vehicles for administrative purposes for use outside of the United States: Provided, That none of the funds appropriated under this heading shall be used to pay for abortions: Provided further, That funds appropriated under this heading shall remain available until September 30, 1999.

#### DEPARTMENT OF STATE

##### INTERNATIONAL NARCOTICS CONTROL

For necessary expenses to carry out section 481 of the Foreign Assistance Act of 1961, \$215,000,000: Provided, That during fiscal year 1998, the Department of State may also use the authority of section 608 of the Act, without regard to its restrictions, to receive non-lethal excess property from an agency of the United States Government for the purpose of providing it to a foreign country under chapter 8 of part I of that Act subject to the regular notification procedures of the Committees on Appropriations: Provided further, That not later than sixty days after the date of enactment of this Act, the Secretary of State in consultation with the Director of the Office of National Drug Control Policy shall submit a report to the Committees on Appropriations containing: (1) a list of all countries in which the United States carries out international counter-narcotics activities; (2) the number, mission and agency affiliation of United States personnel assigned to each such country; and (3) all costs and expenses obligated for each program, project or activity by each United States agency in each country: Provided further, That of the amount made available under this heading not to exceed \$5,000,000 shall be allocated to operate the Western Hemisphere International Law Enforcement Academy: Provided further, That 10 percent of the funds appropriated under this heading shall not be available for obligation until the Secretary of State submits a report to the Committees on Appropriations providing a financial plan for the funds appropriated under this heading and under the heading "Narcotics Interdiction".

#### NARCOTICS INTERDICTION

For necessary expenses to carry out the provisions of section 481 of the Foreign Assistance Act of 1961, \$15,000,000, to remain available until expended, in addition to amounts otherwise available for such purposes, which shall be available for assistance, including procurement, for support of air drug interdiction and eradication and other related purposes: Provided, That funds appropriated under this heading shall be made available subject to the regular notification procedures of the Committees on Appropriations.

#### MIGRATION AND REFUGEE ASSISTANCE

For expenses, not otherwise provided for, necessary to enable the Secretary of State to provide, as authorized by law, a contribution to the International Committee of the Red Cross, assistance to refugees, including contributions to the International Organization for Migration and the United Nations High Commissioner for Refugees, and other activities to meet refugee and migration needs; salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1980; allowances as authorized by sections 5921 through 5925 of title 5, United States Code; purchase and hire of passenger motor vehicles; and services as authorized by section 3109 of title 5, United States Code, \$650,000,000: Provided, That not more than \$12,000,000 shall be available for administrative expenses: Provided further, That not less than \$80,000,000 shall be made available for refugees from the former Soviet Union and Eastern Europe and other refugees resettling in Israel.

#### REFUGEE RESETTLEMENT ASSISTANCE

For necessary expenses for the targeted assistance program authorized by title IV of the Immigration and Nationality Act and section 501 of the Refugee Education Assistance Act of 1980 and administered by the Office of Refugee Resettlement of the Department of Health and Human Services, in addition to amounts otherwise available for such purposes, \$5,000,000.

#### UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

For necessary expenses to carry out the provisions of section 2(c) of the Migration and Refugee Assistance Act of 1962, as amended (22 U.S.C. 260(c)), \$50,000,000, to remain available until expended: Provided, That the funds made available under this heading are appropriated notwithstanding the provisions contained in section 2(c)(2) of the Migration and Refugee Assistance Act of 1962 which would limit the amount of funds which could be appropriated for this purpose.

#### NONPROLIFERATION, ANTI-TERRORISM, DEMINING AND RELATED PROGRAMS

For necessary expenses for nonproliferation, anti-terrorism and related programs and activities, \$133,000,000, to carry out the provisions of chapter 8 of part II of the Foreign Assistance Act of 1961 for anti-terrorism assistance, section 504 of the FREEDOM Support Act for the Nonproliferation and Disarmament Fund, section 23 of the Arms Export Control Act or the Foreign Assistance Act of 1961 for demining, the clearance of unexploded ordnance, and related activities, notwithstanding any other provision of law, including activities implemented through nongovernmental and international organizations, section 301 of the Foreign Assistance Act of 1961 for a voluntary contribution to the International Atomic Energy Agency (IAEA) and a voluntary contribution to the Korean Peninsula Energy Development Organization (KEDO): Provided, That of this amount not to exceed \$15,000,000, to remain available until expended, may be made available for the Nonproliferation and Disarmament Fund, notwithstanding any other provision of law, to promote bilateral and multilateral activities relating to nonproliferation and disarmament: Provided further, That such funds may also be used for such countries other than the new independent states of the former Soviet Union and international organizations when it is in the national security interest of the United States to do so: Provided further, That such funds shall be subject to the regular notification procedures of the Committees on Appropriations: Provided further, That funds appropriated under this heading may be made available for the International Atomic Energy Agency only if the Secretary of State determines (and so reports to the Congress) that Israel is not being denied its right to participate in the activities of that Agency: Provided further, That not to exceed \$30,000,000 may be made available to the Korean Peninsula Energy Development Organization (KEDO) only for the administrative expenses and heavy fuel oil costs associated with the Agreed Framework: Provided further, That such funds may be obligated to KEDO only if, thirty days prior to such obligation of funds, the President certifies and so reports to Congress that: (1)(A) the parties to the Agreed Framework are taking steps to assure that progress is made on the implementation of the January 1, 1992, Joint Declaration on the Denuclearization of the Korean Peninsula and the implementation of the North-South dialogue, and (B) North Korea is complying with the other provisions of the Agreed Framework between North Korea and the United States and with the Confidential Minute; (2) North Korea is cooperating fully in the canning and safe storage of all spent fuel from its graphite-moderated nuclear reactors and that such canning and safe storage is scheduled to be completed by April 1, 1998; and (3) North Korea has not significantly diverted assistance provided by the United States for purposes for which it was not intended: Provided further, That the President may waive the certification requirements of the preceding proviso if the President determines that it is vital to the national security interests of the United States: Provided further, That no funds may be obligated for KEDO until thirty calendar days after submission to Congress of the waiver permitted under the preceding proviso: Provided further, That the obligation of any funds for KEDO shall be subject to the regular notification procedures of the Committees on Appropriations: Provided further, That the Secretary of State shall submit to the appropriate congressional committees an annual report (to be submitted with the annual presentation for appropriations) providing a full and detailed accounting of the fiscal year request for the United States contribution to KEDO, the expected operating budget of the Korean Peninsula Energy Development Organization, to include unpaid debt, proposed annual costs associated with heavy fuel oil purchases, and the amount of funds pledged by other donor nations and organizations to support KEDO activities on a per country basis, and other related activities: Provided further, That of the funds made available under this heading, up to \$10,000,000 may be made available to the Korean Peninsula Energy Development Organization (KEDO), in addition to funds otherwise made available under this heading for KEDO, if the Secretary of State certifies and reports to the Committees on Appropriations that, except for the funds made available under this proviso, funds sufficient to cover all outstanding debts owed by KEDO for heavy fuel oil have been provided to KEDO by donors other than the United States.

#### TITLE III—MILITARY ASSISTANCE

##### FUNDS APPROPRIATED TO THE PRESIDENT INTERNATIONAL MILITARY EDUCATION AND TRAINING

For necessary expenses to carry out the provisions of section 541 of the Foreign Assistance

Act of 1961, \$50,000,000: Provided, That the civilian personnel for whom military education and training may be provided under this heading may include civilians who are not members of a government whose participation would contribute to improved civil-military relations, civilian control of the military, or respect for human rights: Provided further, That funds appropriated under this heading for grant financed military education and training for Indonesia and Guatemala may only be available for expanded international military education and training and funds made available for Guatemala may only be provided through the regular notification procedures of the Committees on Appropriations: Provided further, That none of the funds appropriated under this heading may be made available to support grant financed military education and training at the School of the Americas unless: (1) the Secretary of Defense certifies that the instruction and training provided by the School of the Americas is fully consistent with training and doctrine, particularly with respect to the observance of human rights, provided by the Department of Defense to United States military students at Department of Defense institutions whose primary purpose is to train United States military personnel; (2) the Secretary of Defense certifies that the Secretary of State, in consultation with the Secretary of Defense, has developed and issued specific guidelines governing the selection and screening of candidates for instruction at the School of the Americas; and (3) the Secretary of Defense submits to the Committees on Appropriations a report detailing the training activities of the School of the Americas and a general assessment regarding the performance of its graduates during 1996.

#### FOREIGN MILITARY FINANCING PROGRAM

For expenses necessary for grants to enable the President to carry out the provisions of section 23 of the Arms Export Control Act, \$3,296,550,000: Provided, That of the funds appropriated under this heading, not less than \$1,800,000,000 shall be available for grants only for Israel, and not less than \$1,300,000,000 shall be made available for grants only for Egypt: Provided further, That the funds appropriated by this paragraph for Israel shall be disbursed within thirty days of enactment of this Act or by October 31, 1997, whichever is later: Provided further, That to the extent that the Government of Israel requests that funds be used for such purposes, grants made available for Israel by this paragraph shall, as agreed by Israel and the United States, be available for advanced weapons systems, of which not less than \$475,000,000 shall be available for the procurement in Israel of defense articles and defense services, including research and development: Provided further, That of the funds appropriated by this paragraph, not less than \$75,000,000 shall be available for assistance for Jordan: Provided further, That during fiscal year 1998 the President is authorized to, and shall, direct drawdowns of defense articles from the stocks of the Department of Defense, defense services of the Department of Defense, and military education and training of an aggregate value of not less than \$25,000,000 under the authority of this proviso for Jordan for the purposes of part II of the Foreign Assistance Act of 1961, and any amount so directed shall count toward meeting the earmark in the previous proviso: Provided further, That section 506(c) of the Foreign Assistance Act of 1961 shall apply, and section 632(d) of the Foreign Assistance Act of 1961 shall not apply, to any such drawdown: Provided further, That of the funds appropriated by this paragraph, a total of \$18,300,000 should be available for assistance for Estonia, Latvia, and Lithuania: Provided further, That none of the funds made available under this

heading shall be available for any non-NATO country participating in the Partnership for Peace Program except through the regular notification procedures of the Committees on Appropriations: Provided further, That funds appropriated by this paragraph shall be nonrepayable notwithstanding any requirement in section 23 of the Arms Export Control Act: Provided further, That funds made available under this paragraph shall be obligated upon apportionment in accordance with paragraph (5)(C) of title 31, United States Code, section 1501(a): Provided further, That \$50,000,000 of the funds appropriated or otherwise made available under this heading should be made available for the purpose of facilitating the integration of Poland, Hungary, and the Czech Republic into the North Atlantic Treaty Organization.

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, of direct loans authorized by section 23 of the Arms Export Control Act as follows: cost of direct loans, \$60,000,000: Provided, That these funds are available to subsidize gross obligations for the principal amount of direct loans of not to exceed \$657,000,000: Provided further, That the rate of interest charged on such loans shall be not less than the current average market yield on outstanding marketable obligations of the United States of comparable maturities: Provided further, That funds appropriated under this paragraph shall be made available for Greece and Turkey only on a loan basis, and the principal amount of direct loans for each country shall not exceed the following: \$105,000,000 only for Greece and \$150,000,000 only for Turkey.

None of the funds made available under this heading shall be available to finance the procurement of defense articles, defense services, or design and construction services that are not sold by the United States Government under the Arms Export Control Act unless the foreign country proposing to make such procurements has first signed an agreement with the United States Government specifying the conditions under which such procurements may be financed with such funds: Provided, That all country and funding level increases in allocations shall be submitted through the regular notification procedures of section 515 of this Act: Provided further, That none of the funds appropriated under this heading shall be available for Sudan and Liberia: Provided further, That funds made available under this heading may be used, notwithstanding any other provision of law, for demining, the clearance of unexploded ordnance, and related activities and may include activities implemented through non-governmental and international organizations: Provided further, That only those countries for which assistance was justified for the "Foreign Military Sales Financing Program" in the fiscal year 1989 congressional presentation for security assistance programs may utilize funds made available under this heading for procurement of defense articles, defense services or design and construction services that are not sold by the United States Government under the Arms Export Control Act: Provided further, That, subject to the regular notification procedures of the Committees on Appropriations, funds made available under this heading for the cost of direct loans may also be used to supplement the funds available under this heading for grants, and funds made available under this heading for grants may also be used to supplement the funds available under this heading for the cost of direct loans: Provided further, That funds appropriated under this heading shall be expended at the minimum rate necessary to make timely payment for defense articles and services: Provided further, That not more than \$23,250,000 of the funds appropriated under this heading may be obligated for necessary ex-

penses, including the purchase of passenger motor vehicles for replacement only for use outside of the United States, for the general costs of administering military assistance and sales: Provided further, That none of the funds under this heading shall be available for Guatemala: Provided further, That not more than \$350,000,000 of funds realized pursuant to section 21(e)(1)(A) of the Arms Export Control Act may be obligated for expenses incurred by the Department of Defense during fiscal year 1998 pursuant to section 43(b) of the Arms Export Control Act, except that this limitation may be exceeded only through the regular notification procedures of the Committees on Appropriations.

#### PEACEKEEPING OPERATIONS

For necessary expenses to carry out the provisions of section 551 of the Foreign Assistance Act of 1961, \$77,500,000: Provided, That none of the funds appropriated under this heading shall be obligated or expended except as provided through the regular notification procedures of the Committees on Appropriations.

#### TITLE IV—MULTILATERAL ECONOMIC ASSISTANCE

##### FUNDS APPROPRIATED TO THE PRESIDENT INTERNATIONAL FINANCIAL INSTITUTIONS CONTRIBUTION TO THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

For payment to the International Bank for Reconstruction and Development by the Secretary of the Treasury, for the United States contribution to the Global Environment Facility (GEF), \$47,500,000, to remain available until September 30, 1999.

##### CONTRIBUTION TO THE INTERNATIONAL DEVELOPMENT ASSOCIATION

For payment to the International Development Association by the Secretary of the Treasury, \$1,034,503,100, to remain available until expended, of which \$234,503,100 shall be available to pay for the tenth replenishment: Provided, That none of the funds may be obligated or made available until the Secretary of the Treasury certifies to the Committees on Appropriations that procurement restrictions applicable to United States firms under the terms of the Interim Trust Fund have been lifted from all funds which Interim Trust Fund donors proposed to set aside for review of procurement restrictions at the conclusion of the February 1997 IDA Deputies Meeting in Paris.

##### CONTRIBUTION TO THE INTER-AMERICAN DEVELOPMENT BANK

For payment to the Inter-American Development Bank by the Secretary of the Treasury, for the United States share of the paid-in share portion of the increase in capital stock, \$25,610,667, and for the United States share of the increase in the resources of the Fund for Special Operations, \$20,835,000, to remain available until expended.

##### LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the Inter-American Development Bank may subscribe without fiscal year limitation to the callable capital portion of the United States share of such capital stock in an amount not to exceed \$1,503,718,910.

##### CONTRIBUTION TO THE ENTERPRISE FOR THE AMERICAS MULTILATERAL INVESTMENT FUND

For payment to the Enterprise for the Americas Multilateral Investment Fund by the Secretary of the Treasury, for the United States contribution to the Fund to be administered by the Inter-American Development Bank, \$30,000,000 to remain available until expended, which shall be available for contributions previously due.

CONTRIBUTION TO THE ASIAN DEVELOPMENT BANK  
For payment to the Asian Development Bank by the Secretary of the Treasury for the United

States share of the paid-in portion of the increase in capital stock, \$13,221,596, to remain available until expended.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the Asian Development Bank may subscribe without fiscal year limitation to the callable capital portion of the United States share of such capital stock in an amount not to exceed \$647,858,204.

CONTRIBUTION TO THE ASIAN DEVELOPMENT FUND

For the United States contribution by the Secretary of the Treasury to the increases in resources of the Asian Development Fund, as authorized by the Asian Development Bank Act, as amended (Public Law 89-369), \$150,000,000, of which \$50,000,000 shall be available for contributions previously due, to remain available until expended.

CONTRIBUTION TO THE AFRICAN DEVELOPMENT FUND

For the United States contribution by the Secretary of the Treasury to the increase in resources of the African Development Fund, \$45,000,000, to remain available until expended and which shall be available for contributions previously due.

CONTRIBUTION TO THE EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT

For payment to the European Bank for Reconstruction and Development by the Secretary of the Treasury, \$35,778,717, for the United States share of the paid-in portion of the increase in capital stock, to remain available until expended.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the European Bank for Reconstruction and Development may subscribe without fiscal year limitation to the callable capital portion of the United States share of such capital stock in an amount not to exceed \$123,237,803.

NORTH AMERICAN DEVELOPMENT BANK

For payment to the North American Development Bank by the Secretary of the Treasury, for the United States share of the paid-in portion of the capital stock, \$56,500,000, to remain available until expended of which \$250,000 shall be available for contributions previously due: Provided, That none of the funds appropriated under this heading that are made available for the Community Adjustment and Investment Program shall be used for purposes other than those set out in the binational agreement establishing the Bank: Provided further, That of the amount appropriated under this heading, not more than \$41,250,000 may be expended for the purchase of such capital shares in fiscal year 1998.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the North American Development Bank may subscribe without fiscal year limitation to the callable capital portion of the United States share of the capital stock of the North American Development Bank in an amount not to exceed \$318,750,000.

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

For necessary expenses to carry out the provisions of section 301 of the Foreign Assistance Act of 1961, and of section 2 of the United Nations Environment Program Participation Act of 1973, \$192,000,000: Provided, That none of the funds appropriated under this heading shall be made available for the United Nations Fund for Science and Technology: Provided further, That none of the funds appropriated under this heading that are made available to the United Nations Population Fund (UNFPA) shall be made available for activities in the People's Republic of China: Provided further, That not more than

\$25,000,000 of the funds appropriated under this heading may be made available to UNFPA: Provided further, That not more than one-half of this amount may be provided to UNFPA before March 1, 1998, and that no later than February 15, 1998, the Secretary of State shall submit a report to the Committees on Appropriations indicating the amount UNFPA is budgeting for the People's Republic of China in 1998: Provided further, That any amount UNFPA plans to spend in the People's Republic of China in 1998 shall be deducted from the amount of funds provided to UNFPA after March 1, 1998, pursuant to the previous provisos: Provided further, That with respect to any funds appropriated under this heading that are made available to UNFPA, UNFPA shall be required to maintain such funds in a separate account and not commingle them with any other funds: Provided further, That none of the funds appropriated under this heading may be made available to the Korean Peninsula Energy Development Organization (KEDO) or the International Atomic Energy Agency (IAEA): Provided further, That not less than \$4,000,000 should be made available to the World Food Program.

TITLE V—GENERAL PROVISIONS OBLIGATIONS DURING LAST MONTH OF AVAILABILITY

SEC. 501. Except for the appropriations entitled "International Disaster Assistance", and "United States Emergency Refugee and Migration Assistance Fund", not more than 15 percent of any appropriation item made available by this Act shall be obligated during the last month of availability.

PROHIBITION OF BILATERAL FUNDING FOR INTERNATIONAL FINANCIAL INSTITUTIONS

SEC. 502. Notwithstanding section 614 of the Foreign Assistance Act of 1961, as amended, none of the funds contained in title II of this Act may be used to carry out the provisions of section 209(d) of the Foreign Assistance Act of 1961.

LIMITATION ON RESIDENCE EXPENSES

SEC. 503. Of the funds appropriated or made available pursuant to this Act, not to exceed \$126,500 shall be for official residence expenses of the Agency for International Development during the current fiscal year: Provided, That appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars.

LIMITATION ON EXPENSES

SEC. 504. Of the funds appropriated or made available pursuant to this Act, not to exceed \$5,000 shall be for entertainment expenses of the Agency for International Development during the current fiscal year.

LIMITATION ON REPRESENTATIONAL ALLOWANCES

SEC. 505. Of the funds appropriated or made available pursuant to this Act, not to exceed \$95,000 shall be available for representation allowances for the Agency for International Development during the current fiscal year: Provided, That appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars: Provided further, That of the funds made available by this Act for general costs of administering military assistance and sales under the heading "Foreign Military Financing Program", not to exceed \$2,000 shall be available for entertainment expenses and not to exceed \$50,000 shall be available for representation allowances: Provided further, That of the funds made available by this Act under the heading "International Military Education and Training", not to exceed \$50,000 shall be available for entertainment allowances: Provided further, That of the funds made available by this Act for the Inter-American Foundation, not to

exceed \$2,000 shall be available for entertainment and representation allowances: Provided further, That of the funds made available by this Act for the Peace Corps, not to exceed a total of \$4,000 shall be available for entertainment expenses: Provided further, That of the funds made available by this Act under the heading "Trade and Development Agency", not to exceed \$2,000 shall be available for representation and entertainment allowances.

PROHIBITION ON FINANCING NUCLEAR GOODS

SEC. 506. None of the funds appropriated or made available (other than funds for "Non-proliferation, Anti-terrorism, Demining and Related Programs") pursuant to this Act, for carrying out the Foreign Assistance Act of 1961, may be used, except for purposes of nuclear safety, to finance the export of nuclear equipment, fuel, or technology.

PROHIBITION AGAINST DIRECT FUNDING FOR CERTAIN COUNTRIES

SEC. 507. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance or reparations to Cuba, Iraq, Libya, North Korea, Iran, Sudan, or Syria: Provided, That for purposes of this section, the prohibition on obligations or expenditures shall include direct loans, credits, insurance and guarantees of the Export-Import Bank or its agents.

MILITARY COUPS

SEC. 508. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance to any country whose duly elected Head of Government is deposed by military coup or decree: Provided, That assistance may be resumed to such country if the President determines and reports to the Committees on Appropriations that subsequent to the termination of assistance a democratically elected government has taken office.

TRANSFERS BETWEEN ACCOUNTS

SEC. 509. None of the funds made available by this Act may be obligated under an appropriation account to which they were not appropriated, except for transfers specifically provided for in this Act, unless the President, prior to the exercise of any authority contained in the Foreign Assistance Act of 1961 to transfer funds, consults with and provides a written policy justification to the Committees on Appropriations of the House of Representatives and the Senate: Provided, That the exercise of such authority shall be subject to the regular notification procedures of the Committees on Appropriations.

DEOBLIGATION/REOBLIGATION AUTHORITY

SEC. 510. (a) Amounts certified pursuant to section 1311 of the Supplemental Appropriations Act, 1955, as having been obligated against appropriations heretofore made under the authority of the Foreign Assistance Act of 1961 for the same general purpose as any of the headings under title II of this Act are, if deobligated, hereby continued available for the same period as the respective appropriations under such headings or until September 30, 1998, whichever is later, and for the same general purpose, and for countries within the same region as originally obligated: Provided, That the Appropriations Committees of both Houses of the Congress are notified fifteen days in advance of the reobligation of such funds in accordance with regular notification procedures of the Committees on Appropriations.

(b) Obligated balances of funds appropriated to carry out section 23 of the Arms Export Control Act as of the end of the fiscal year immediately preceding the current fiscal year are, if deobligated, hereby continued available during the current fiscal year for the same purpose

under any authority applicable to such appropriations under this Act: Provided, That the authority of this subsection may not be used in fiscal year 1998.

#### AVAILABILITY OF FUNDS

SEC. 511. No part of any appropriation contained in this Act shall remain available for obligation after the expiration of the current fiscal year unless expressly so provided in this Act: Provided, That funds appropriated for the purposes of chapters 1, 8, and 11 of part I, section 667, and chapter 4 of part II of the Foreign Assistance Act of 1961, as amended, and funds provided under the heading "Assistance for Eastern Europe and the Baltic States", shall remain available until expended if such funds are initially obligated before the expiration of their respective periods of availability contained in this Act: Provided further, That, notwithstanding any other provision of this Act, any funds made available for the purposes of chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961 which are allocated or obligated for cash disbursements in order to address balance of payments or economic policy reform objectives, shall remain available until expended: Provided further, That the report required by section 653(a) of the Foreign Assistance Act of 1961 shall designate for each country, to the extent known at the time of submission of such report, those funds allocated for cash disbursement for balance of payment and economic policy reform purposes.

#### LIMITATION ON ASSISTANCE TO COUNTRIES IN DEFAULT

SEC. 512. No part of any appropriation contained in this Act shall be used to furnish assistance to any country which is in default during a period in excess of one calendar year in payment to the United States of principal or interest on any loan made to such country by the United States pursuant to a program for which funds are appropriated under this Act: Provided, That this section and section 620(q) of the Foreign Assistance Act of 1961 shall not apply to funds made available in this Act or during the current fiscal year for Nicaragua and Liberia, and for any narcotics-related assistance for Colombia, Bolivia, and Peru authorized by the Foreign Assistance Act of 1961 or the Arms Export Control Act.

#### COMMERCE AND TRADE

SEC. 513. (a) None of the funds appropriated or made available pursuant to this Act for direct assistance and none of the funds otherwise made available pursuant to this Act to the Export-Import Bank and the Overseas Private Investment Corporation shall be obligated or expended to finance any loan, any assistance or any other financial commitments for establishing or expanding production of any commodity for export by any country other than the United States, if the commodity is likely to be in surplus on world markets at the time the resulting productive capacity is expected to become operative and if the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity: Provided, That such prohibition shall not apply to the Export-Import Bank if in the judgment of its Board of Directors the benefits to industry and employment in the United States are likely to outweigh the injury to United States producers of the same, similar, or competing commodity, and the Chairman of the Board so notifies the Committees on Appropriations.

(b) None of the funds appropriated by this or any other Act to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 shall be available for any testing or breeding feasibility study, variety improvement or introduction, consultancy, publication, conference, or training in connection with the growth or production in a foreign country of an agricultural com-

modity for export which would compete with a similar commodity grown or produced in the United States: Provided, That this subsection shall not prohibit—

(1) activities designed to increase food security in developing countries where such activities will not have a significant impact in the export of agricultural commodities of the United States; or

(2) research activities intended primarily to benefit American producers.

#### SURPLUS COMMODITIES

SEC. 514. The Secretary of the Treasury shall instruct the United States Executive Directors of the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the International Monetary Fund, the Asian Development Bank, the Inter-American Investment Corporation, the North American Development Bank, the European Bank for Reconstruction and Development, the African Development Bank, and the African Development Fund to use the voice and vote of the United States to oppose any assistance by these institutions, using funds appropriated or made available pursuant to this Act, for the production or extraction of any commodity or mineral for export, if it is in surplus on world markets and if the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity.

#### NOTIFICATION REQUIREMENTS

SEC. 515. For the purposes of providing the Executive Branch with the necessary administrative flexibility, none of the funds made available under this Act for "Child Survival and Disease Programs Fund", "Development Assistance", "International organizations and programs", "Trade and Development Agency", "International narcotics control", "Narcotics interdiction", "Assistance for Eastern Europe and the Baltic States", "Assistance for the New Independent States of the Former Soviet Union", "Economic Support Fund", "Peacekeeping operations", "Operating expenses of the Agency for International Development", "Operating expenses of the Agency for International Development Office of Inspector General", "Nonproliferation, anti-terrorism, demining and related programs", "Foreign Military Financing Program", "International military education and training", "Peace Corps", "Migration and refugee assistance", shall be available for obligation for activities, programs, projects, type of materiel assistance, countries, or other operations not justified or in excess of the amount justified to the Appropriations Committees for obligation under any of these specific headings unless the Appropriations Committees of both Houses of Congress are previously notified fifteen days in advance: Provided, That the President shall not enter into any commitment of funds appropriated for the purposes of section 23 of the Arms Export Control Act for the provision of major defense equipment, other than conventional ammunition, or other major defense items defined to be aircraft, ships, missiles, or combat vehicles, not previously justified to Congress or 20 percent in excess of the quantities justified to Congress unless the Committees on Appropriations are notified fifteen days in advance of such commitment: Provided further, That this section shall not apply to any reprogramming for an activity, program, or project under chapter 1 of part I of the Foreign Assistance Act of 1961 of less than 10 percent of the amount previously justified to the Congress for obligation for such activity, program, or project for the current fiscal year: Provided further, That the requirements of this section or any similar provision of this Act or any other Act, including any prior Act requiring notification in

accordance with the regular notification procedures of the Committees on Appropriations, may be waived if failure to do so would pose a substantial risk to human health or welfare: Provided further, That in case of any such waiver, notification to the Congress, or the appropriate congressional committees, shall be provided as early as practicable, but in no event later than three days after taking the action to which such notification requirement was applicable, in the context of the circumstances necessitating such waiver: Provided further, That any notification provided pursuant to such a waiver shall contain an explanation of the emergency circumstances.

Drawdowns made pursuant to section 506(a)(2) of the Foreign Assistance Act of 1961 shall be subject to the regular notification procedures of the Committees on Appropriations.

#### LIMITATION ON AVAILABILITY OF FUNDS FOR INTERNATIONAL ORGANIZATIONS AND PROGRAMS

SEC. 516. Notwithstanding any other provision of law or of this Act, none of the funds provided for "International Organizations and Programs" shall be available for the United States proportionate share, in accordance with section 307(c) of the Foreign Assistance Act of 1961, for any programs identified in section 307, or for Libya, Iran, or, at the discretion of the President, Communist countries listed in section 620(f) of the Foreign Assistance Act of 1961, as amended: Provided, That, subject to the regular notification procedures of the Committees on Appropriations, funds appropriated under this Act or any previously enacted Act making appropriations for foreign operations, export financing, and related programs, which are returned or not made available for organizations and programs because of the implementation of this section or any similar provision of law, shall remain available for obligation through September 30, 1999.

#### ECONOMIC SUPPORT FUND ASSISTANCE FOR ISRAEL

SEC. 517. The Congress finds that progress on the peace process in the Middle East is vitally important to United States security interests in the region. The Congress recognizes that, in fulfilling its obligations under the Treaty of Peace Between the Arab Republic of Egypt and the State of Israel, done at Washington on March 26, 1979, Israel incurred severe economic burdens. Furthermore, the Congress recognizes that an economically and militarily secure Israel serves the security interests of the United States, for a secure Israel is an Israel which has the incentive and confidence to continue pursuing the peace process. Therefore, the Congress declares that, subject to the availability of appropriations, it is the policy and the intention of the United States that the funds provided in annual appropriations for the Economic Support Fund which are allocated to Israel shall not be less than the annual debt repayment (interest and principal) from Israel to the United States Government in recognition that such a principle serves United States interests in the region.

#### PROHIBITION ON FUNDING FOR ABORTIONS AND INVOLUNTARY STERILIZATION

SEC. 518. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of abortions as a method of family planning or to motivate or coerce any person to practice abortions. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of involuntary sterilization as a method of family planning or to coerce or provide any financial incentive to any person to undergo sterilizations. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for any biomedical research which relates in whole or in part, to methods of, or the

performance of, abortions or involuntary sterilization as a means of family planning. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be obligated or expended for any country or organization if the President certifies that the use of these funds by any such country or organization would violate any of the above provisions related to abortions and involuntary sterilizations: Provided, That none of the funds made available under this Act may be used to lobby for or against abortion.

#### REPORTING REQUIREMENT

SEC. 519. Section 25 of the Arms Export Control Act is amended—

(1) in subsection (a), by striking "Congress" and inserting in lieu thereof "appropriate congressional committees";

(2) in subsection (b), by striking "the Committee on Foreign Relations of the Senate or the Committee on Foreign Affairs of the House of Representatives" and inserting in lieu thereof "any of the congressional committees described in subsection (e)"; and

(3) by adding the following subsection:

"(e) As used in this section, the term 'appropriate congressional committees' means the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on International Relations and the Committee on Appropriations of the House of Representatives."

#### SPECIAL NOTIFICATION REQUIREMENTS

SEC. 520. None of the funds appropriated in this Act shall be obligated or expended for Colombia, Haiti, Liberia, Pakistan, Panama, Peru, Serbia, Sudan, or the Democratic Republic of Congo except as provided through the regular notification procedures of the Committees on Appropriations.

#### DEFINITION OF PROGRAM, PROJECT, AND ACTIVITY

SEC. 521. For the purpose of this Act, "program, project, and activity" shall be defined at the Appropriations Act account level and shall include all Appropriations and Authorizations Acts earmarks, ceilings, and limitations with the exception that for the following accounts: Economic Support Fund and Foreign Military Financing Program, "program, project, and activity" shall also be considered to include country, regional, and central program level funding within each such account; for the development assistance accounts of the Agency for International Development "program, project, and activity" shall also be considered to include central program level funding, either as (1) justified to the Congress, or (2) allocated by the executive branch in accordance with a report, to be provided to the Committees on Appropriations within thirty days of enactment of this Act, as required by section 653(a) of the Foreign Assistance Act of 1961.

#### CHILD SURVIVAL, AIDS, AND OTHER ACTIVITIES

SEC. 522. Up to \$10,000,000 of the funds made available by this Act for assistance for family planning, health, child survival, basic education, and AIDS, may be used to reimburse United States Government agencies, agencies of State governments, institutions of higher learning, and private and voluntary organizations for the full cost of individuals (including for the personal services of such individuals) detailed or assigned to, or contracted by, as the case may be, the Agency for International Development for the purpose of carrying out family planning activities, child survival, and basic education activities, and activities relating to research on, and the treatment and control of acquired immune deficiency syndrome in developing countries: Provided, That funds appropriated by this Act that are made available for child survival activities or activities relating to research on, and the treatment and control of, acquired im-

mune deficiency syndrome may be made available notwithstanding any provision of law that restricts assistance to foreign countries: Provided further, That funds appropriated by this Act that are made available for family planning activities may be made available notwithstanding section 512 of this Act and section 620(q) of the Foreign Assistance Act of 1961.

#### PROHIBITION AGAINST INDIRECT FUNDING TO CERTAIN COUNTRIES

SEC. 523. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated to finance indirectly any assistance or reparations to Cuba, Iraq, Libya, Iran, Syria, North Korea, or the People's Republic of China, unless the President of the United States certifies that the withholding of these funds is contrary to the national interest of the United States.

#### RECIPROCAL LEASING

SEC. 524. Section 61(a) of the Arms Export Control Act is amended by striking out "1997" and inserting in lieu thereof "1998".

#### NOTIFICATION ON EXCESS DEFENSE EQUIPMENT

SEC. 525. Prior to providing excess Department of Defense articles in accordance with section 516(a) of the Foreign Assistance Act of 1961, the Department of Defense shall notify the Committees on Appropriations to the same extent and under the same conditions as are other committees pursuant to subsection (c) of that section: Provided, That before issuing a letter of offer to sell excess defense articles under the Arms Export Control Act, the Department of Defense shall notify the Committees on Appropriations in accordance with the regular notification procedures of such Committees: Provided further, That such Committees shall also be informed of the original acquisition cost of such defense articles.

#### AUTHORIZATION REQUIREMENT

SEC. 526. Funds appropriated by this Act may be obligated and expended notwithstanding section 10 of Public Law 91-672 and section 15 of the State Department Basic Authorities Act of 1956.

#### PROHIBITION ON BILATERAL ASSISTANCE TO TERRORIST COUNTRIES

SEC. 527. (a) Notwithstanding any other provision of law, funds appropriated for bilateral assistance under any heading of this Act and funds appropriated under any such heading in a provision of law enacted prior to enactment of this Act, shall not be made available to any country which the President determines—

(1) grants sanctuary from prosecution to any individual or group which has committed an act of international terrorism; or

(2) otherwise supports international terrorism.

(b) The President may waive the application of subsection (a) to a country if the President determines that national security or humanitarian reasons justify such waiver. The President shall publish each waiver in the Federal Register and, at least fifteen days before the waiver takes effect, shall notify the Committees on Appropriations of the waiver (including the justification for the waiver) in accordance with the regular notification procedures of the Committees on Appropriations.

#### COMMERCIAL LEASING OF DEFENSE ARTICLES

SEC. 528. Notwithstanding any other provision of law, and subject to the regular notification procedures of the Committees on Appropriations, the authority of section 23(a) of the Arms Export Control Act may be used to provide financing to Israel, Egypt and NATO and major non-NATO allies for the procurement by leasing (including leasing with an option to purchase) of defense articles from United States commercial suppliers, not including Major Defense Equipment (other than helicopters and other types of aircraft having possible civilian application), if the Presi-

dent determines that there are compelling foreign policy or national security reasons for those defense articles being provided by commercial lease rather than by government-to-government sale under such Act.

#### COMPETITIVE INSURANCE

SEC. 529. All Agency for International Development contracts and solicitations, and subcontracts entered into under such contracts, shall include a clause requiring that United States insurance companies have a fair opportunity to bid for insurance when such insurance is necessary or appropriate.

#### STINGERS IN THE PERSIAN GULF REGION

SEC. 530. Except as provided in section 581 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990, the United States may not sell or otherwise make available any Stingers to any country bordering the Persian Gulf under the Arms Export Control Act or chapter 2 of part II of the Foreign Assistance Act of 1961.

#### DEBT-FOR-DEVELOPMENT

SEC. 531. In order to enhance the continued participation of nongovernmental organizations in economic assistance activities under the Foreign Assistance Act of 1961, including endowments, debt-for-development and debt-for-nature exchanges, a nongovernmental organization which is a grantee or contractor of the Agency for International Development may place in interest bearing accounts funds made available under this Act or prior Acts or local currencies which accrue to that organization as a result of economic assistance provided under title II of this Act and any interest earned on such investment shall be used for the purpose for which the assistance was provided to that organization.

#### SEPARATE ACCOUNTS

SEC. 532. (a) SEPARATE ACCOUNTS FOR LOCAL CURRENCIES.—(1) If assistance is furnished to the government of a foreign country under chapters I and 10 of part I or chapter 4 of part II of the Foreign Assistance Act of 1961 under agreements which result in the generation of local currencies of that country, the Administrator of the Agency for International Development shall—

(A) require that local currencies be deposited in a separate account established by that government;

(B) enter into an agreement with that government which sets forth—

(i) the amount of the local currencies to be generated; and

(ii) the terms and conditions under which the currencies so deposited may be utilized, consistent with this section; and

(C) establish by agreement with that government the responsibilities of the Agency for International Development and that government to monitor and account for deposits into and disbursements from the separate account.

(2) USES OF LOCAL CURRENCIES.—As may be agreed upon with the foreign government, local currencies deposited in a separate account pursuant to subsection (a), or an equivalent amount of local currencies, shall be used only—

(A) to carry out chapters I or 10 of part I or chapter 4 of part II (as the case may be), for such purposes as—

(i) project and sector assistance activities; or

(ii) debt and deficit financing; or

(B) for the administrative requirements of the United States Government.

(3) PROGRAMMING ACCOUNTABILITY.—The Agency for International Development shall take all necessary steps to ensure that the equivalent of the local currencies disbursed pursuant to subsection (a)(2)(A) from the separate account established pursuant to subsection (a)(1) are used for the purposes agreed upon pursuant to subsection (a)(2).

(4) **TERMINATION OF ASSISTANCE PROGRAMS.**—Upon termination of assistance to a country under chapters 1 or 10 of part I or chapter 4 of part II (as the case may be), any unencumbered balances of funds which remain in a separate account established pursuant to subsection (a) shall be disposed of for such purposes as may be agreed to by the government of that country and the United States Government.

(5) **CONFORMING AMENDMENTS.**—The provisions of this subsection shall supersede the tenth and eleventh provisos contained under the heading "Sub-Saharan Africa, Development Assistance" as included in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 and sections 531(d) and 609 of the Foreign Assistance Act of 1961.

(6) **REPORTING REQUIREMENT.**—The Administrator of the Agency for International Development shall report on an annual basis as part of the justification documents submitted to the Committees on Appropriations on the use of local currencies for the administrative requirements of the United States Government as authorized in subsection (a)(2)(B), and such report shall include the amount of local currency (and United States dollar equivalent) used and/or to be used for such purpose in each applicable country.

(b) **SEPARATE ACCOUNTS FOR CASH TRANSFERS.**—(1) If assistance is made available to the government of a foreign country, under chapters 1 or 10 of part I or chapter 4 of part II of the Foreign Assistance Act of 1961, as cash transfer assistance or as nonproject sector assistance, that country shall be required to maintain such funds in a separate account and not commingle them with any other funds.

(2) **APPLICABILITY OF OTHER PROVISIONS OF LAW.**—Such funds may be obligated and expended notwithstanding provisions of law which are inconsistent with the nature of this assistance including provisions which are referenced in the Joint Explanatory Statement of the Committee of Conference accompanying House Joint Resolution 648 (H. Report No. 98-1159).

(3) **NOTIFICATION.**—At least fifteen days prior to obligating any such cash transfer or nonproject sector assistance, the President shall submit a notification through the regular notification procedures of the Committees on Appropriations, which shall include a detailed description of how the funds proposed to be made available will be used, with a discussion of the United States interests that will be served by the assistance (including, as appropriate, a description of the economic policy reforms that will be promoted by such assistance).

(4) **EXEMPTION.**—Nonproject sector assistance funds may be exempt from the requirements of subsection (b)(1) only through the notification procedures of the Committees on Appropriations.

**COMPENSATION FOR UNITED STATES EXECUTIVE DIRECTORS TO INTERNATIONAL FINANCIAL INSTITUTIONS**

SEC. 533. (a) No funds appropriated by this Act may be made as payment to any international financial institution while the United States Executive Director to such institution is compensated by the institution at a rate which, together with whatever compensation such Director receives from the United States, is in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while any alternate United States Director to such institution is compensated by the institution at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(b) For purposes of this section, "international financial institutions" are: the Inter-

national Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, the Asian Development Fund, the African Development Bank, the African Development Fund, the International Monetary Fund, the North American Development Bank, and the European Bank for Reconstruction and Development.

**COMPLIANCE WITH UNITED NATIONS SANCTIONS AGAINST IRAQ**

SEC. 534. None of the funds appropriated or otherwise made available pursuant to this Act to carry out the Foreign Assistance Act of 1961 (including title IV of chapter 2 of part I, relating to the Overseas Private Investment Corporation) or the Arms Export Control Act may be used to provide assistance to any country that is not in compliance with the United Nations Security Council sanctions against Iraq unless the President determines and so certifies to the Congress that—

(1) such assistance is in the national interest of the United States;

(2) such assistance will directly benefit the needy people in that country; or

(3) the assistance to be provided will be humanitarian assistance for foreign nationals who have fled Iraq and Kuwait.

**COMPETITIVE PRICING FOR SALES OF DEFENSE ARTICLES**

SEC. 535. Direct costs associated with meeting a foreign customer's additional or unique requirements will continue to be allowable under contracts under section 22(d) of the Arms Export Control Act. Loadings applicable to such direct costs shall be permitted at the same rates applicable to procurement of like items purchased by the Department of Defense for its own use.

**EXTENSION OF AUTHORITY TO OBLIGATE FUNDS TO CLOSE THE SPECIAL DEFENSE ACQUISITION FUND**

SEC. 536. Title III of Public Law 103-306 is amended under the heading "Special Defense Acquisition Fund" by striking "1998" and inserting "2000".

**AUTHORITIES FOR THE PEACE CORPS, THE INTER-AMERICAN FOUNDATION AND THE AFRICAN DEVELOPMENT FOUNDATION**

SEC. 537. Unless expressly provided to the contrary, provisions of this or any other Act, including provisions contained in prior Acts authorizing or making appropriations for foreign operations, export financing, and related programs, shall not be construed to prohibit activities authorized by or conducted under the Peace Corps Act, the Inter-American Foundation Act, or the African Development Foundation Act. The appropriate agency shall promptly report to the Committees on Appropriations whenever it is conducting activities or is proposing to conduct activities in a country for which assistance is prohibited.

**IMPACT ON JOBS IN THE UNITED STATES**

SEC. 538. None of the funds appropriated by this Act may be obligated or expended to provide—

(a) any financial incentive to a business enterprise currently located in the United States for the purpose of inducing such an enterprise to relocate outside the United States if such incentive or inducement is likely to reduce the number of employees of such business enterprise in the United States because United States production is being replaced by such enterprise outside the United States;

(b) assistance for the purpose of establishing or developing in a foreign country any export processing zone or designated area in which the tax, tariff, labor, environment, and safety laws of that country do not apply, in part or in whole, to activities carried out within that zone or area, unless the President determines and certifies that such assistance is not likely to cause a loss of jobs within the United States; or

(c) assistance for any project or activity that contributes to the violation of internationally recognized workers rights, as defined in section 502(a)(4) of the Trade Act of 1974, of workers in the recipient country, including any designated zone or area in that country: Provided, That in recognition that the application of this subsection should be commensurate with the level of development of the recipient country and sector, the provisions of this subsection shall not preclude assistance for the informal sector in such country, micro and small-scale enterprise, and smallholder agriculture.

**SPECIAL AUTHORITIES**

SEC. 539. (a) Funds appropriated in title II of this Act that are made available for Afghanistan, Lebanon, and for victims of war, displaced children, displaced Burmese, humanitarian assistance for Romania, and humanitarian assistance for the peoples of Bosnia and Herzegovina, Croatia, and Kosovo, may be made available notwithstanding any other provision of law.

(b) Funds appropriated by this Act to carry out the provisions of sections 103 through 106 of the Foreign Assistance Act of 1961 may be used, notwithstanding any other provision of law, for the purpose of supporting tropical forestry and energy programs aimed at reducing emissions of greenhouse gases, and for the purpose of supporting biodiversity conservation activities: Provided, That such assistance shall be subject to sections 116, 502B, and 620A of the Foreign Assistance Act of 1961.

(c) The Agency for International Development may employ personal services contractors, notwithstanding any other provision of law, for the purpose of administering programs for the West Bank and Gaza.

(d)(1) **WAIVER.**—The President may waive the provisions of section 1003 of Public Law 100-204 if the President determines and certifies in writing to the Speaker of the House of Representatives and the President Pro Tempore of the Senate that it is important to the national security interests of the United States.

(2) **PERIOD OF APPLICATION OF WAIVER.**—Any waiver pursuant to paragraph (1) shall be effective for no more than a period of six months at a time and shall not apply beyond twelve months after enactment of this Act.

**POLICY ON TERMINATING THE ARAB LEAGUE BOYCOTT OF ISRAEL**

SEC. 540. It is the sense of the Congress that—

(1) the Arab League countries should immediately and publicly renounce the primary boycott of Israel and the secondary and tertiary boycott of American firms that have commercial ties with Israel; and

(2) the decision by the Arab League in 1997 to reinstate the boycott against Israel was deeply troubling and disappointing; and

(3) the Arab League should immediately rescind its decision on the boycott and its members should develop normal relations with their neighbor Israel; and

(4) the President should—

(A) take more concrete steps to encourage vigorously Arab League countries to renounce publicly the primary boycotts of Israel and the secondary and tertiary boycotts of American firms that have commercial relations with Israel as a confidence-building measure;

(B) take into consideration the participation of any recipient country in the primary boycott of Israel and the secondary and tertiary boycotts of American firms that have commercial relations with Israel when determining whether to sell weapons to said country;

(C) report to Congress on the specific steps being taken by the President to bring about a public renunciation of the Arab primary boycott of Israel and the secondary and tertiary boycotts of American firms that have commercial relations with Israel and to expand the process of

normalizing ties between Arab League countries and Israel; and

(D) encourage the allies and trading partners of the United States to enact laws prohibiting businesses from complying with the boycott and penalizing businesses that do comply.

#### ANTI-NARCOTICS ACTIVITIES

SEC. 541. (a) Of the funds appropriated or otherwise made available by this Act for "Economic Support Fund", assistance may be provided to strengthen the administration of justice in countries in Latin America and the Caribbean and in other regions consistent with the provisions of section 534(b) of the Foreign Assistance Act of 1961, except that programs to enhance protection of participants in judicial cases may be conducted notwithstanding section 660 of that Act.

(b) Funds made available pursuant to this section may be made available notwithstanding section 534(c) and the second and third sentences of section 534(e) of the Foreign Assistance Act of 1961. Funds made available pursuant to subsection (a) for Bolivia, Colombia, and Peru may be made available notwithstanding section 534(c) and the second sentence of section 534(e) of the Foreign Assistance Act of 1961.

#### ELIGIBILITY FOR ASSISTANCE

SEC. 542. (a) ASSISTANCE THROUGH NONGOVERNMENTAL ORGANIZATIONS.—Restrictions contained in this or any other Act with respect to assistance for a country shall not be construed to restrict assistance in support of programs of nongovernmental organizations from funds appropriated by this Act to carry out the provisions of chapters 1 and 10 and 11 of part I, and chapter 4 of part II, of the Foreign Assistance Act of 1961: Provided, That the President shall take into consideration, in any case in which a restriction on assistance would be applicable but for this subsection, whether assistance in support of programs of nongovernmental organizations is in the national interest of the United States: Provided further, That before using the authority of this subsection to furnish assistance in support of programs of nongovernmental organizations, the President shall notify the Committees on Appropriations under the regular notification procedures of those committees, including a description of the program to be assisted, the assistance to be provided, and the reasons for furnishing such assistance: Provided further, That nothing in this subsection shall be construed to alter any existing statutory prohibitions against abortion or involuntary sterilizations contained in this or any other Act.

(b) PUBLIC LAW 480.—During fiscal year 1998, restrictions contained in this or any other Act with respect to assistance for a country shall not be construed to restrict assistance under the Agricultural Trade Development and Assistance Act of 1954: Provided, That none of the funds appropriated to carry out title I of such Act and made available pursuant to this subsection may be obligated or expended except as provided through the regular notification procedures of the Committees on Appropriations.

(c) EXCEPTION.—This section shall not apply—

(1) with respect to section 620A of the Foreign Assistance Act or any comparable provision of law prohibiting assistance to countries that support international terrorism; or

(2) with respect to section 116 of the Foreign Assistance Act of 1961 or any comparable provision of law prohibiting assistance to countries that violate internationally recognized human rights.

#### EARMARKS

SEC. 543. (a) Funds appropriated by this Act which are earmarked may be reprogrammed for other programs within the same account notwithstanding the earmark if compliance with

the earmark is made impossible by operation of any provision of this or any other Act or, with respect to a country with which the United States has an agreement providing the United States with base rights or base access in that country, if the President determines that the recipient for which funds are earmarked has significantly reduced its military or economic cooperation with the United States since enactment of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991; however, before exercising the authority of this subsection with regard to a base rights or base access country which has significantly reduced its military or economic cooperation with the United States, the President shall consult with, and shall provide a written policy justification to the Committees on Appropriations: Provided, That any such reprogramming shall be subject to the regular notification procedures of the Committees on Appropriations: Provided further, That assistance that is reprogrammed pursuant to this subsection shall be made available under the same terms and conditions as originally provided.

(b) In addition to the authority contained in subsection (a), the original period of availability of funds appropriated by this Act and administered by the Agency for International Development that are earmarked for particular programs or activities by this or any other Act shall be extended for an additional fiscal year if the Administrator of such agency determines and reports promptly to the Committees on Appropriations that the termination of assistance to a country or a significant change in circumstances makes it unlikely that such earmarked funds can be obligated during the original period of availability: Provided, That such earmarked funds that are continued available for an additional fiscal year shall be obligated only for the purpose of such earmark.

#### CEILINGS AND EARMARKS

SEC. 544. Ceilings and earmarks contained in this Act shall not be applicable to funds or authorities appropriated or otherwise made available by any subsequent Act unless such Act specifically so directs.

#### PROHIBITION ON PUBLICITY OR PROPAGANDA

SEC. 545. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes within the United States not authorized before the date of enactment of this Act by the Congress: Provided, That not to exceed \$500,000 may be made available to carry out the provisions of section 316 of Public Law 96-533.

#### PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS

SEC. 546. (a) To the maximum extent possible, assistance provided under this Act should make full use of American resources, including commodities, products, and services.

(b) It is the Sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

(c) In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (b) by the Congress.

#### PROHIBITION OF PAYMENTS TO UNITED NATIONS MEMBERS

SEC. 547. None of the funds appropriated or made available pursuant to this Act for carrying out the Foreign Assistance Act of 1961, may be used to pay in whole or in part any assessments, arrearages, or dues of any member of the United Nations.

#### CONSULTING SERVICES

SEC. 548. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order pursuant to existing law.

#### PRIVATE VOLUNTARY ORGANIZATIONS—DOCUMENTATION

SEC. 549. None of the funds appropriated or made available pursuant to this Act shall be available to a private voluntary organization which fails to provide upon timely request any document, file, or record necessary to the auditing requirements of the Agency for International Development.

#### PROHIBITION ON ASSISTANCE TO FOREIGN GOVERNMENTS THAT EXPORT LETHAL MILITARY EQUIPMENT TO COUNTRIES SUPPORTING INTERNATIONAL TERRORISM

SEC. 550. (a) None of the funds appropriated or otherwise made available by this Act may be available to any foreign government which provides lethal military equipment to a country the government of which the Secretary of State has determined is a terrorist government for purposes of section 40(d) of the Arms Export Control Act. The prohibition under this section with respect to a foreign government shall terminate 12 months after that government ceases to provide such military equipment. This section applies with respect to lethal military equipment provided under a contract entered into after October 1, 1997.

(b) Assistance restricted by subsection (a) or any other similar provision of law, may be furnished if the President determines that furnishing such assistance is important to the national interests of the United States.

(c) Whenever the waiver of subsection (b) is exercised, the President shall submit to the appropriate congressional committees a report with respect to the furnishing of such assistance. Any such report shall include a detailed explanation of the assistance estimated to be provided, including the estimated dollar amount of such assistance, and an explanation of how the assistance furthers United States national interests.

#### WITHHOLDING OF ASSISTANCE FOR PARKING FINES OWED BY FOREIGN COUNTRIES

SEC. 551. (a) IN GENERAL.—Of the funds made available for a foreign country under part I of the Foreign Assistance Act of 1961, an amount equivalent to 110 percent of the total unpaid fully adjudicated parking fines and penalties owed to the District of Columbia by such country as of the date of enactment of this Act shall be withheld from obligation for such country until the Secretary of State certifies and reports in writing to the appropriate congressional committees that such fines and penalties are fully paid to the government of the District of Columbia.

(b) DEFINITION.—For purposes of this section, the term "appropriate congressional committees" means the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on International Relations and the Committee on Appropriations of the House of Representatives.

#### LIMITATION ON ASSISTANCE FOR THE PLO FOR THE WEST BANK AND GAZA

SEC. 552. None of the funds appropriated by this Act may be obligated for assistance for the Palestine Liberation Organization for the West Bank and Gaza unless the President has exercised the authority under section 604(a) of the Middle East Peace Facilitation Act of 1995 (title VI of Public Law 104-107) or any other legislation to suspend or make inapplicable section 307

of the Foreign Assistance Act of 1961 and that suspension is still in effect: Provided, That if the President fails to make the certification under section 604(b)(2) of the Middle East Peace Facilitation Act of 1995 or to suspend the prohibition under other legislation, funds appropriated by this Act may not be obligated for assistance for the Palestine Liberation Organization for the West Bank and Gaza.

#### WAR CRIMES TRIBUNALS DRAWDOWN

SEC. 553. If the President determines that doing so will contribute to a just resolution of charges regarding genocide or other violations of international humanitarian law, the President may direct a drawdown pursuant to section 552(c) of the Foreign Assistance Act of 1961, as amended, of up to \$25,000,000 of commodities and services for the United Nations War Crimes Tribunal established with regard to the former Yugoslavia by the United Nations Security Council or such other tribunals or commissions as the Council may establish to deal with such violations, without regard to the ceiling limitation contained in paragraph (2) thereof: Provided, That the determination required under this section shall be in lieu of any determinations otherwise required under section 552(c): Provided further, That sixty days after the date of enactment of this Act, and every one hundred eighty days thereafter, the Secretary of State shall submit a report to the Committees on Appropriations describing the steps the United States Government is taking to collect information regarding allegations of genocide or other violations of international law in the former Yugoslavia and to furnish that information to the United Nations War Crimes Tribunal for the former Yugoslavia.

#### LANDMINES

SEC. 554. Notwithstanding any other provision of law, demining equipment available to the Agency for International Development and the Department of State and used in support of the clearance of landmines and unexploded ordnance for humanitarian purposes may be disposed of on a grant basis in foreign countries, subject to such terms and conditions as the President may prescribe: Provided, That not later than 90 days after the enactment of this Act, the Secretary of Defense, in consultation with the Secretary of State, shall submit a report to the Committees on Appropriations describing potential alternative technologies or tactics and a plan for the development of such alternatives to protect anti-tank mines from tampering in a manner consistent with the "Convention on the Prohibition, Use, Stockpiling, Production and Transfer of Anti-personnel Mines and on Their Destruction".

#### RESTRICTIONS CONCERNING THE PALESTINIAN AUTHORITY

SEC. 555. None of the funds appropriated by this Act may be obligated or expended to create in any part of Jerusalem a new office of any department or agency of the United States Government for the purpose of conducting official United States Government business with the Palestinian Authority over Gaza and Jericho or any successor Palestinian governing entity provided for in the Israel-PLO Declaration of Principles: Provided, That this restriction shall not apply to the acquisition of additional space for the existing Consulate General in Jerusalem: Provided further, That meetings between officers and employees of the United States and officials of the Palestinian Authority, or any successor Palestinian governing entity provided for in the Israel-PLO Declaration of Principles, for the purpose of conducting official United States Government business with such authority should continue to take place in locations other than Jerusalem. As has been true in the past, officers and employees of the United States Government may continue to meet in Jerusalem on

other subjects with Palestinians (including those who now occupy positions in the Palestinian Authority), have social contacts, and have incidental discussions.

#### PROHIBITION OF PAYMENT OF CERTAIN EXPENSES

SEC. 556. None of the funds appropriated or otherwise made available by this Act under the heading "International Military Education and Training" or "Foreign Military Financing Program" for Informational Program activities may be obligated or expended to pay for—

- (1) alcoholic beverages;
- (2) food (other than food provided at a military installation) not provided in conjunction with Informational Program trips where students do not stay at a military installation; or
- (3) entertainment expenses for activities that are substantially of a recreational character, including entrance fees at sporting events and amusement parks.

#### EQUITABLE ALLOCATION OF FUNDS

SEC. 557. Not more than 18 percent of the funds appropriated by this Act to carry out the provisions of sections 103 through 106 and chapter 4 of part II of the Foreign Assistance Act of 1961, that are made available for Latin America and the Caribbean region may be made available, through bilateral and Latin America and the Caribbean regional programs, to provide assistance for any country in such region.

#### SPECIAL DEBT RELIEF FOR THE POOREST

SEC. 558. (a) AUTHORITY TO REDUCE DEBT.—The President may reduce amounts owed to the United States (or any agency of the United States) by an eligible country as a result of—

- (1) guarantees issued under sections 221 and 222 of the Foreign Assistance Act of 1961; or
- (2) credits extended or guarantees issued under the Arms Export Control Act;
- (3) any obligation or portion of such obligation for a Latin American country, to pay for purchases of United States agricultural commodities guaranteed by the Commodity Credit Corporation under export credit guarantee programs authorized pursuant to section 5(f) of the Commodity Credit Corporation Charter Act of June 29, 1948, as amended, section 4(b) of the Food for Peace Act of 1966, as amended (Public Law 89-808), or section 202 of the Agricultural Trade Act of 1978, as amended (Public Law 95-501).

#### (b) LIMITATIONS.—

(1) The authority provided by subsection (a) may be exercised only to implement multilateral official debt relief and referendum agreements, commonly referred to as "Paris Club Agreed Minutes".

(2) The authority provided by subsection (a) may be exercised only in such amounts or to such extent as is provided in advance by appropriations Acts.

(3) The authority provided by subsection (a) may be exercised only with respect to countries with heavy debt burdens that are eligible to borrow from the International Development Association, but not from the International Bank for Reconstruction and Development, commonly referred to as "IDA-only" countries.

(c) CONDITIONS.—The authority provided by subsection (a) may be exercised only with respect to a country whose government—

- (1) does not have an excessive level of military expenditures;
- (2) has not repeatedly provided support for acts of international terrorism;
- (3) is not failing to cooperate on international narcotics control matters;
- (4) (including its military or other security forces) does not engage in a consistent pattern of gross violations of internationally recognized human rights; and
- (5) is not ineligible for assistance because of the application of section 527 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995.

(d) AVAILABILITY OF FUNDS.—The authority provided by subsection (a) may be used only with regard to funds appropriated by this Act under the heading "Debt restructuring".

(e) CERTAIN PROHIBITIONS INAPPLICABLE.—A reduction of debt pursuant to subsection (a) shall not be considered assistance for purposes of any provision of law limiting assistance to a country. The authority provided by subsection (a) may be exercised notwithstanding section 620(r) of the Foreign Assistance Act of 1961.

#### AUTHORITY TO ENGAGE IN DEBT BUYBACKS OR SALES

SEC. 559. (a) LOANS ELIGIBLE FOR SALE, REDUCTION, OR CANCELLATION.—

(1) AUTHORITY TO SELL, REDUCE, OR CANCEL CERTAIN LOANS.—Notwithstanding any other provision of law, the President may, in accordance with this section, sell to any eligible purchaser any concessional loan or portion thereof made before January 1, 1995, pursuant to the Foreign Assistance Act of 1961, to the government of any eligible country as defined in section 702(6) of that Act or on receipt of payment from an eligible purchaser, reduce or cancel such loan or portion thereof, only for the purpose of facilitating—

(A) debt-for-equity swaps, debt-for-development swaps, or debt-for-nature swaps; or

(B) a debt buyback by an eligible country of its own qualified debt, only if the eligible country uses an additional amount of the local currency of the eligible country, equal to not less than 40 percent of the price paid for such debt by such eligible country, or the difference between the price paid for such debt and the face value of such debt, to support activities that link conservation and sustainable use of natural resources with local community development, and child survival and other child development, in a manner consistent with sections 707 through 710 of the Foreign Assistance Act of 1961, if the sale, reduction, or cancellation would not contravene any term or condition of any prior agreement relating to such loan.

(2) TERMS AND CONDITIONS.—Notwithstanding any other provision of law, the President shall, in accordance with this section, establish the terms and conditions under which loans may be sold, reduced, or canceled pursuant to this section.

(3) ADMINISTRATION.—The Facility, as defined in section 702(8) of the Foreign Assistance Act of 1961, shall notify the administrator of the agency primarily responsible for administering part I of the Foreign Assistance Act of 1961 of purchasers that the President has determined to be eligible, and shall direct such agency to carry out the sale, reduction, or cancellation of a loan pursuant to this section. Such agency shall make an adjustment in its accounts to reflect the sale, reduction, or cancellation.

(4) LIMITATION.—The authorities of this subsection shall be available only to the extent that appropriations for the cost of the modification, as defined in section 502 of the Congressional Budget Act of 1974, are made in advance.

(b) DEPOSIT OF PROCEEDS.—The proceeds from the sale, reduction, or cancellation of any loan sold, reduced, or canceled pursuant to this section shall be deposited in the United States Government account or accounts established for the repayment of such loan.

(c) ELIGIBLE PURCHASERS.—A loan may be sold pursuant to subsection (a)(1)(A) only to a purchaser who presents plans satisfactory to the President for using the loan for the purpose of engaging in debt-for-equity swaps, debt-for-development swaps, or debt-for-nature swaps.

(d) DEBTOR CONSULTATIONS.—Before the sale to any eligible purchaser, or any reduction or cancellation pursuant to this section, of any loan made to an eligible country, the President should consult with the country concerning the

amount of loans to be sold, reduced, or canceled and their uses for debt-for-equity swaps, debt-for-development swaps, or debt-for-nature swaps.

(e) AVAILABILITY OF FUNDS.—The authority provided by subsection (a) may be used only with regard to funds appropriated by this Act under the heading "Debt restructuring".

#### INTERNATIONAL FINANCIAL INSTITUTIONS

SEC. 560. (a) AUTHORIZATIONS.—The Secretary of the Treasury may, to fulfill commitments of the United States: (1) effect the United States participation in the first general capital increase of the European Bank for Reconstruction and Development, subscribe to and make payment for 100,000 additional shares of the capital stock of the Bank on behalf of the United States; and (2) contribute on behalf of the United States to the eleventh replenishment of the resources of the International Development Association, to the sixth replenishment of the resources of the Asian Development Fund, a special fund of the Asian Development Bank. The following amounts are authorized to be appropriated without fiscal year limitation for payment by the Secretary of the Treasury: (1) \$285,772,500 for paid-in capital, and \$984,327,500 for callable capital of the European Bank for Reconstruction and Development; (2) \$1,600,000,000 for the International Development Association; (3) \$400,000,000 for the Asian Development Fund; and (4) \$76,832,001 for paid-in capital, and \$4,511,156,729 for callable capital of the Inter-American Development Bank in connection with the eighth general increase in the resources of that Bank. Each such subscription or contribution shall be subject to obtaining the necessary appropriations.

(b) CONSIDERATION OF ENVIRONMENTAL IMPACT OF INTERNATIONAL FINANCE CORPORATION LOANS.—Section 1307 of the International Financial Institutions Act (Public Law 95-118) is amended as follows:

(1) in subsection (a)(1)(A) strike "borrowing country" and insert in lieu thereof "borrower";

(2) in subsection (a)(2)(A) strike "country"; and

(3) at the end of Section 1307, add a new subsection as follows:

"(g) For purposes of this section, the term 'multilateral development bank' means any of the institutions named in Section 1303(b) of this Act, and the International Finance Corporation."

(c) The Secretary of the Treasury shall instruct the United States Executive Directors of the International Bank for Reconstruction and Development and the International Development Association to use the voice and vote of the United States to strongly encourage their respective institutions to—

(1) provide timely public information on procurement opportunities available to United States suppliers, with a special emphasis on small business; and

(2) systematically consult with local communities on the potential impact of loans as part of the normal lending process, and expand the participation of affected peoples and nongovernmental organizations in decisions on the selection, design and implementation of policies and projects.

#### SANCTIONS AGAINST COUNTRIES HARBORING WAR CRIMINALS

SEC. 561. (a) BILATERAL ASSISTANCE.—The President is authorized to withhold funds appropriated by this Act under the Foreign Assistance Act of 1961 or the Arms Export Control Act for any country described in subsection (c).

(b) MULTILATERAL ASSISTANCE.—The Secretary of the Treasury should instruct the United States executive directors of the international financial institutions to work in opposition to, and vote against, any extension by

such institutions of financing or financial or technical assistance to any country described in subsection (c).

(c) SANCTIONED COUNTRIES.—A country described in this subsection is a country the government of which knowingly grants sanctuary to persons in its territory for the purpose of evading prosecution, where such persons—

(1) have been indicted by the International Criminal Tribunal for Rwanda, or any other international tribunal with similar standing under international law; or

(2) have been indicted for war crimes or crimes against humanity committed during the period beginning March 23, 1933 and ending on May 8, 1945 under the direction of, or in association with—

(A) the Nazi government of Germany;

(B) any government in any area occupied by the military forces of the Nazi government of Germany;

(C) any government which was established with the assistance or cooperation of the Nazi government; or

(D) any government which was an ally of the Nazi government of Germany.

#### LIMITATION ON ASSISTANCE FOR HAITI

SEC. 562. (a) LIMITATION.—None of the funds appropriated or otherwise made available by this Act may be provided to the Government of Haiti unless the President reports to Congress that the Government of Haiti—

(1) is conducting thorough investigations of extrajudicial and political killings;

(2) is cooperating with United States authorities in the investigations of political and extrajudicial killings;

(3) has substantially completed privatization of (or placed under long-term private management or concession) at least three major public enterprises; and

(4) has taken action to remove from the Haitian National Police, national palace and residential guard, ministerial guard, and any other public security entity of Haiti those individuals who are credibly alleged to have engaged in or conspired to conceal gross violations of internationally recognized human rights.

(b) EXCEPTIONS.—The limitation in subsection (a) does not apply to the provision of humanitarian, electoral, counter-narcotics, or law enforcement assistance.

(c) WAIVER.—The President may waive the requirements of this section on a semiannual basis if the President determines and certifies to the appropriate committees of Congress that such waiver is in the national interest of the United States.

(d) PARASTATALS DEFINED.—As used in this section, the term "parastatal" means a government-owned enterprise.

#### REQUIREMENT FOR DISCLOSURE OF FOREIGN AID IN REPORT OF SECRETARY OF STATE

SEC. 563. (a) FOREIGN AID REPORTING REQUIREMENT.—In addition to the voting practices of a foreign country, the report required to be submitted to Congress under section 406(a) of the Foreign Relations Authorization Act, fiscal years 1990 and 1991 (22 U.S.C. 2414a), shall include a side-by-side comparison of individual countries' overall support for the United States at the United Nations and the amount of United States assistance provided to such country in fiscal year 1997.

(b) UNITED STATES ASSISTANCE.—For purposes of this section, the term "United States assistance" has the meaning given the term in section 481(e)(4) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(e)(4)).

#### RESTRICTIONS ON VOLUNTARY CONTRIBUTIONS TO UNITED NATIONS AGENCIES

SEC. 564. (a) PROHIBITION ON VOLUNTARY CONTRIBUTIONS FOR THE UNITED NATIONS.—None of the funds appropriated or otherwise

made available by this Act may be made available to pay any voluntary contribution of the United States to the United Nations (including the United Nations Development Program) if the United Nations implements or imposes any taxation on any United States persons.

(b) CERTIFICATION REQUIRED FOR DISBURSEMENT OF FUNDS.—None of the funds appropriated or otherwise made available under this Act may be made available to pay any voluntary contribution of the United States to the United Nations (including the United Nations Development Program) unless the President certifies to the Congress 15 days in advance of such payment that the United Nations is not engaged in any effort to implement or impose any taxation on United States persons in order to raise revenue for the United Nations or any of its specialized agencies.

(c) DEFINITIONS.—As used in this section the term "United States person" refers to—

(1) a natural person who is a citizen or national of the United States; or

(2) a corporation, partnership, or other legal entity organized under the United States or any State, territory, possession, or district of the United States.

#### ASSISTANCE TO TURKEY

SEC. 565. (a) Not more than \$40,000,000 of the funds appropriated in this Act under the heading "Economic Support Fund" may be made available for Turkey.

(b) Of the funds made available under the heading "Economic Support Fund" for Turkey, not less than fifty percent of these funds shall be made available for the purpose of supporting private nongovernmental organizations engaged in strengthening democratic institutions in Turkey, providing economic assistance for individuals and communities affected by civil unrest, and supporting and promoting peaceful solutions and economic development which will contribute to the settlement of regional problems in Turkey.

#### LIMITATION ON ASSISTANCE TO THE PALESTINIAN AUTHORITY

SEC. 566. (a) PROHIBITION OF FUNDS.—None of the funds appropriated by this Act to carry out the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961 may be obligated or expended with respect to providing funds to the Palestinian Authority.

(b) WAIVER.—The prohibition included in subsection (a) shall not apply if the President certifies in writing to the Speaker of the House of Representatives and the President Pro Tempore of the Senate that waiving such prohibition is important to the national security interests of the United States.

(c) PERIOD OF APPLICATION OF WAIVER.—Any waiver pursuant to subsection (b) shall be effective for no more than a period of six months at a time and shall not apply beyond twelve months after enactment of this Act.

#### LIMITATION ON ASSISTANCE TO THE GOVERNMENT OF CROATIA

SEC. 567. None of the funds appropriated or otherwise made available by title II of this Act may be made available to the Government of Croatia to relocate the remains of Croatian Ustashe soldiers, at the site of the World War II concentration camp at Jasenovac, Croatia.

#### BURMA LABOR REPORT

SEC. 568. Not later than one hundred twenty days after enactment of this Act, the Secretary of Labor in consultation with the Secretary of State shall provide to the Committees on Appropriations a report addressing labor practices in Burma.

#### HAITI

SEC. 569. The Government of Haiti shall be eligible to purchase defense articles and services under the Arms Export Control Act (22 U.S.C.

2751 et seq.), for the civilian-led Haitian National Police and Coast Guard: Provided, That the authority provided by this section shall be subject to the regular notification procedures of the Committees on Appropriations.

**LIMITATION ON ASSISTANCE TO SECURITY FORCES**

SEC. 570. None of the funds made available by this Act may be provided to any unit of the security forces of a foreign country if the Secretary of State has credible evidence that such unit has committed gross violations of human rights, unless the Secretary determines and reports to the Committees on Appropriations that the government of such country is taking effective measures to bring the responsible members of the security forces unit to justice: Provided, That nothing in this section shall be construed to withhold funds made available by this Act from any unit of the security forces of a foreign country not credibly alleged to be involved in gross violations of human rights: Provided further, That in the event that funds are withheld from any unit pursuant to this section, the Secretary of State shall promptly inform the foreign government of the basis for such action and shall, to the maximum extent practicable, assist the foreign government in taking effective measures to bring the responsible members of the security forces to justice.

**LIMITATIONS ON TRANSFER OF MILITARY EQUIPMENT TO EAST TIMOR**

SEC. 571. In any agreement for the sale, transfer, or licensing of any lethal equipment or helicopter for Indonesia entered into by the United States pursuant to the authority of this Act or any other Act, the agreement shall state that the United States expects that the items will not be used in East Timor: Provided, That nothing in this section shall be construed to limit Indonesia's inherent right to legitimate national self-defense as recognized under the United Nations Charter and international law.

**TRANSPARENCY OF BUDGETS**

SEC. 572. Section 576(a)(1) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997, as contained in Public Law 104-208, is amended to read as follows:

"(1) does not have in place a functioning system for reporting to civilian authorities audits of receipts and expenditures that fund activities of the armed forces and security forces";

Section 576(a)(2) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997, as contained in Public Law 104-208, is amended to read as follows:

"(2) not provided to the institution information about the audit process requested by the institution."

**RESTRICTIONS ON ASSISTANCE TO COUNTRIES PROVIDING SANCTUARY TO INDICTED WAR CRIMINALS**

SEC. 573. (a) **BILATERAL ASSISTANCE.**—None of the funds made available by this or any prior Act making appropriations for foreign operations, export financing and related programs, may be provided for any country, entity or canton described in subsection (d).

(b) **MULTILATERAL ASSISTANCE.**—

(1) **PROHIBITION.**—The Secretary of the Treasury shall instruct the United States executive directors of the international financial institutions to work in opposition to, and vote against, any extension by such institutions of any financial or technical assistance or grants of any kind to any country or entity described in subsection (d).

(2) **NOTIFICATION.**—Not less than 15 days before any vote in an international financial institution regarding the extension of financial or technical assistance or grants to any country or entity described in subsection (d), the Secretary of the Treasury, in consultation with the Sec-

retary of State, shall provide to the Committee on Appropriations and the Committee on Foreign Relations of the Senate and the Committee on Appropriations and the Committee on Banking and Financial Services of the House of Representatives a written justification for the proposed assistance, including an explanation of the U.S. position regarding any such vote, as well as a description of the location of the proposed assistance by municipality, its purpose, and its intended beneficiaries.

(3) **DEFINITION.**—The term "international financial institution" includes the International Monetary Fund, the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Multilateral Investment Guaranty Agency, and the European Bank for Reconstruction and Development.

(c) **EXCEPTIONS.**—

(1) **IN GENERAL.**—Subject to paragraph (2), subsections (a) and (b) shall not apply to the provision of—

(A) humanitarian assistance;

(B) democratization assistance;

(C) assistance for cross border physical infrastructure projects involving activities in both a sanctioned country, entity, or canton and a nonsanctioned contiguous country, entity, or canton, if the project is primarily located in and primarily benefits the nonsanctioned country, entity, or canton and if the portion of the project located in the sanctioned country, entity, or canton is necessary only to complete the project;

(D) small-scale assistance projects or activities requested by U.S. armed forces that promote good relations between such forces and the officials and citizens of the areas in the U.S. SFOR sector of Bosnia;

(E) implementation of the Brcko Arbitral Decision;

(F) lending by the international financial institutions to a country or entity to support common monetary and fiscal policies at the national level as contemplated by the Dayton Agreement; or

(G) direct lending to a non-sanctioned entity, or lending passed on by the national government to a non-sanctioned entity.

(2) **FURTHER LIMITATIONS.**—Notwithstanding paragraph (1)—

(A) no assistance may be made available by this Act, or any prior Act making appropriations for foreign operations, export financing and related programs, in any country, entity, or canton described in subsection (d), for a program, project, or activity in which a publicly indicted war criminal is known to have any financial or material interest; and

(B) no assistance (other than emergency foods or medical assistance or demining assistance) may be made available by this Act, or any prior Act making appropriations for foreign operations, export financing and related programs for any program, project, or activity in a community within any country, entity or canton described in subsection (d) if competent authorities within that community are not complying with the provisions of Article IX and Annex 4, Article II, paragraph 8 of the Dayton Agreement relating to war crimes and the Tribunal.

(d) **SANCTIONED COUNTRY, ENTITY, OR CANTON.**—A sanctioned country, entity, or canton described in this section is one whose competent authorities have failed, as determined by the Secretary of State, to take necessary and significant steps to apprehend and transfer to the Tribunal all persons who have been publicly indicted by the Tribunal.

(e) **WAIVER.**—

(1) **IN GENERAL.**—The Secretary of State may waive the application of subsection (a) or sub-

section (b) with respect to specified bilateral programs or international financial institution projects or programs in a sanctioned country, entity, or canton upon providing a written determination to the Committee on Appropriations and the Committee on Foreign Relations of the Senate and the Committee on Appropriations and the Committee on International Relations of the House of Representatives that such assistance directly supports the implementation of the Dayton Agreement and its Annexes, which include the obligation to apprehend and transfer indicted war criminals to the Tribunal.

(2) **REPORT.**—Not later than 15 days after the date of any written determination under paragraph (e)(1), the Secretary of State shall submit a report to the Committee on Appropriations and the Committee on Foreign Relations of the Senate and the Committee on Appropriations and the Committee on International Relations of the House of Representatives regarding the status of efforts to secure the voluntary surrender or apprehension and transfer of persons indicted by the Tribunal, in accordance with the Dayton Agreement, and outlining obstacles to achieving this goal.

(3) **ASSISTANCE PROGRAMS AND PROJECTS AFFECTED.**—Any waiver made pursuant to this subsection shall be effective only with respect to a specified bilateral program or multilateral assistance project or program identified in the determination of the Secretary of State to Congress.

(f) **TERMINATION OF SANCTIONS.**—The sanctions imposed pursuant to subsections (a) and (b) with respect to a country or entity shall cease to apply only if the Secretary of State determines and certifies to Congress that the authorities of that country, entity, or canton have apprehended and transferred to the Tribunal all persons who have been publicly indicted by the Tribunal.

(g) **DEFINITIONS.**—As used in this section—

(1) **COUNTRY.**—The term "country" means Bosnia-Herzegovina, Croatia, and Serbia-Montenegro (Federal Republic of Yugoslavia).

(2) **ENTITY.**—The term "entity" refers to the Federation of Bosnia and Herzegovina and the Republika Srpska.

(3) **CANTON.**—The term "canton" means the administrative units in Bosnia and Herzegovina.

(4) **DAYTON AGREEMENT.**—The term "Dayton Agreement" means the General Framework Agreement for Peace in Bosnia and Herzegovina, together with annexes relating thereto, done at Dayton, November 10 through 16, 1995.

(5) **TRIBUNAL.**—The term "Tribunal" means the International Criminal Tribunal for the Former Yugoslavia.

(h) **ROLE OF HUMAN RIGHTS ORGANIZATIONS AND GOVERNMENT AGENCIES.**—In carrying out this subsection, the Secretary of State, the Administrator of the Agency for International Development, and the executive directors of the international financial institutions shall consult with representatives of human rights organizations and all government agencies with relevant information to help prevent publicly indicted war criminals from benefiting from any financial or technical assistance or grants provided to any country or entity described in subsection (d).

**EXTENSION OF CERTAIN ADJUDICATION PROVISIONS**

SEC. 574. The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-167) is amended—

(1) in section 599D (8 U.S.C. 1157 note)—

(A) in subsection (b)(3), by striking "and 1997" and inserting "1997, and 1998"; and

(B) in subsection (e), by striking "October 1, 1997" each place it appears and inserting "October 1, 1998"; and

(2) in section 599E (8 U.S.C. 1255 note) in subsection (b)(2), by striking "September 30, 1997" and inserting "September 30, 1998".

**ADDITIONAL REQUIREMENTS RELATING TO STOCKPILING OF DEFENSE ARTICLES FOR FOREIGN COUNTRIES**

SEC. 575. (a) VALUE OF ADDITIONS TO STOCKPILES.—Section 514(b)(2)(A) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321h(b)(2)(A)) is amended by inserting before the period at the end the following: "and \$60,000,000 for fiscal year 1998".

(b) REQUIREMENTS RELATING TO THE REPUBLIC OF KOREA AND THAILAND.—Section 514(b)(2)(B) of such Act (22 U.S.C. 2321h(b)(2)(B)) is amended by adding at the end the following: "Of the amount specified in subparagraph (A) for fiscal year 1998, not more than \$40,000,000 may be made available for stockpiles in the Republic of Korea and not more than \$20,000,000 may be made available for stockpiles in Thailand."

**DELIVERY OF DRAWDOWN BY COMMERCIAL TRANSPORTATION SERVICES**

SEC. 576. Section 506 of the Foreign Assistance Act of 1961 (22 U.S.C. 2318) is amended—

(1) in subsection (b)(2), by striking the period and inserting the following: ", including providing the Congress with a report detailing all defense articles, defense services, and military education and training delivered to the recipient country or international organization upon delivery of such articles or upon completion of such services or education and training. Such report shall also include whether any savings were realized by utilizing commercial transport services rather than acquiring those services from United States Government transport assets.";

(2) by redesignating subsection (c) as subsection (d); and

(3) by inserting after subsection (b) the following:

"(c) For the purposes of any provision of law that authorizes the drawdown of defense or other articles or commodities, or defense or other services from an agency of the United States Government, such drawdown may include the supply of commercial transportation and related services that are acquired by contract for the purposes of the drawdown in question if the cost to acquire such commercial transportation and related services is less than the cost to the United States Government of providing such services from existing agency assets."

**TO PROHIBIT FOREIGN ASSISTANCE TO THE GOVERNMENT OF RUSSIA SHOULD IT IMPLEMENT LAWS WHICH WOULD DISCRIMINATE AGAINST MINORITY RELIGIOUS FAITHS IN THE RUSSIAN FEDERATION**

SEC. 577. (a) None of the funds appropriated under this Act may be made available for the Government of the Russian Federation unless within 30 days of the date this section becomes effective the President determines and certifies in writing to the Committees on Appropriations and the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives that the Government of the Russian Federation has implemented no statute, executive order, regulation or similar government action that would discriminate, or would have as its principal effect discrimination, against religious groups or religious communities in the Russian Federation in violation of accepted international agreements on human rights and religious freedoms to which the Russian Federation is a party.

(b) This section shall become effective one hundred fifty days after the enactment of this Act.

**U.S. POLICY REGARDING SUPPORT FOR COUNTRIES OF THE SOUTH CAUCASUS AND CENTRAL ASIA**

SEC. 578. (a) FINDINGS.—Congress makes the following findings:

(1) The ancient Silk Road, once the economic lifeline of Central Asia and the South Caucasus, traversed much of the territory now within the countries of Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan.

(2) Economic interdependence spurred mutual cooperation among the peoples along the Silk Road and restoration of the historic relationships and economic ties between those peoples is an important element of ensuring their sovereignty as well as the success of democratic and market reforms.

(3) The development of strong political and economic ties between countries of the South Caucasus and Central Asia and the West will foster stability in the region.

(4) The development of open market economies and open democratic systems in the countries of the South Caucasus and Central Asia will provide positive incentives for international private investment, increased trade, and other forms of commercial interactions with the rest of the world.

(5) The Caspian Sea Basin, overlapping the territory of the countries of the South Caucasus and Central Asia, contains proven oil and gas reserves that may exceed \$4,000,000,000,000 in value.

(6) The region of the South Caucasus and Central Asia will produce oil and gas in sufficient quantities to reduce the dependence of the United States on energy from the volatile Persian Gulf region.

(7) United States foreign policy and international assistance should be narrowly targeted to support the economic and political independence of the countries of the South Caucasus and Central Asia.

(b) GENERAL.—The policy of the United States in the countries of the South Caucasus and Central Asia should be—

(1) to promote sovereignty and independence with democratic government;

(2) to assist actively in the resolution of regional conflicts;

(3) to promote friendly relations and economic cooperation;

(4) to help promote market-oriented principles and practices;

(5) to assist in the development of infrastructure necessary for communications, transportation, and energy and trade on an East-West axis in order to build strong international relations and commerce between those countries and the stable, democratic, and market-oriented countries of the Euro-Atlantic Community; and

(6) to support United States business interests and investments in the region.

(c) DEFINITION.—In this section, the term "countries of the South Caucasus and Central Asia" means Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan.

**PAKISTAN**

SEC. 579. (a) OPIC.—Section 239(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2199(f)) is amended by inserting ", or Pakistan" after "China".

(b) TRADE AND DEVELOPMENT.—It is the sense of Congress that the Director of the Trade and Development Agency should use funds made available to carry out the provisions of section 661 of the Foreign Assistance Act of 1961 (22 U.S.C. 2421) to promote United States exports to Pakistan.

**REQUIREMENTS FOR THE REPORTING TO CONGRESS OF THE COSTS TO THE FEDERAL GOVERNMENT ASSOCIATED WITH THE PROPOSED AGREEMENT TO REDUCE GREENHOUSE GAS EMISSIONS**

SEC. 580. The President shall provide to the Congress a detailed account of all Federal agency obligations and expenditures for climate change programs and activities, domestic and

international, for fiscal year 1997, planned obligations for such activities in fiscal year 1998, and any plan for programs thereafter in the context of negotiations to amend the Framework Convention on Climate Change (FCCC) to be provided to the appropriate congressional committees no later than November 15, 1997.

**AUTHORITY TO ISSUE INSURANCE AND EXTEND FINANCING**

SEC. 581. (a) IN GENERAL.—Section 235(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2195(a)) is amended—

(1) by striking paragraphs (1) and (2)(A) and inserting the following:

"(1) INSURANCE AND FINANCING.—(A) The maximum contingent liability outstanding at any one time pursuant to insurance issued under section 234(a), and the amount of financing issued under sections 234 (b) and (c), shall not exceed in the aggregate \$29,000,000,000.";

(2) by redesignating paragraph (3) as paragraph (2); and

(3) by amending paragraph (2) (as so redesignated) by striking "September 30, 1997" and inserting "September 30, 1999".

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 235(a) of that Act (22 U.S.C. 2195(a)), as redesignated by subsection (a), is further amended by striking "(a) and (b)" and inserting "(a), (b), and (c)".

(c) EXTENSION OF AUTHORITY.—Section 7 of the Export-Import Bank Act of 1945 (12 U.S.C. 635f) is amended by striking "October 23, 1997" and inserting "September 30, 1998".

(d) TIED AID CREDIT FUND AUTHORITY.—

(a) Section 10(c)(2) of the Export-Import Bank Act of 1945 (12 U.S.C. 635i 3(c)(2)) is amended by striking "through" and all that follows through "1997".

(b) Section 10(e) of such Act (12 U.S.C. 635i-3(3)) is amended by striking the first sentence and inserting the following: "There are authorized to be appropriated to the Fund such sums as may be necessary to carry out the purposes of this section."

**WITHHOLDING ASSISTANCE TO COUNTRIES VIOLATING UNITED NATIONS SANCTIONS AGAINST LIBYA**

SEC. 582. (a) WITHHOLDING OF ASSISTANCE.—Except as provided in subsection (b), whenever the President determines and certifies to Congress that the government of any country is violating any sanction against Libya imposed pursuant to United Nations Security Council Resolution 731, 748, or 883, then not less than 5 percent of the funds allocated for the country under section 653(a) of the Foreign Assistance Act of 1961 out of appropriations in this Act shall be withheld from obligation and expenditure for that country.

(b) EXCEPTION.—The requirement to withhold funds under subsection (a) shall not apply to funds appropriated in this Act for allocation under section 653(a) of the Foreign Assistance Act of 1961 for development assistance or for humanitarian assistance.

(c) WAIVER.—Funds may be provided for a country without regard to subsection (a) if the President determines that to do so is in the national security interest of the United States.

**WAR CRIMES PROSECUTION**

SEC. 583. Section 2401 of title 18, United States Code (Public Law 104-192; the War Crimes Act of 1996) is amended as follows—

(1) in subsection (a), by striking "grave breach of the Geneva Conventions" and inserting "war crime";

(2) in subsection (b), by striking "breach" each place it appears and inserting "war crime"; and

(3) so that subsection (c) reads as follows:

"(c) DEFINITION.—As used in this section the term 'war crime' means any conduct—

"(1) defined as a grave breach in any of the international conventions signed at Geneva 12

August 1949, or any protocol to such convention to which the United States is a party;

"(2) prohibited by Articles 23, 25, 27, or 28 of the Annex to the Hague Convention IV, Respecting the Laws and Customs of War on Land, signed 18 October 1907;

"(3) which constitutes a violation of common Article 3 of the international conventions signed at Geneva 12 August 1949, or any protocol to such convention to which the United States is a party and which deals with non-international armed conflict; or

"(4) of a person who, in relation to an armed conflict and contrary to the provisions of the Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices as amended at Geneva on 3 May 1996 (Protocol II as amended on 3 May 1996), when the United States is a party to such Protocol, willfully kills or causes serious injury to civilians."

#### INTERNATIONAL MILITARY EDUCATION AND TRAINING PROGRAMS FOR LATIN AMERICA

SEC. 584. (a) EXPANDED IMET.—The Secretary of Defense, in consultation with the Secretary of State, should make every effort to ensure that approximately 30 percent of the funds appropriated in this Act for "International Military Education and Training" for the cost of Latin American participants in IMET programs will be disbursed for the purpose of supporting enrollment of such participants in expanded IMET courses.

(b) CIVILIAN PARTICIPATION.—The Secretary of State, in consultation with the Secretary of Defense, should identify sufficient numbers of qualified, non-military personnel from countries in Latin America so that approximately 25 percent of the total number of individuals from Latin American countries attending United States supported IMET programs and the Center for Hemispheric Defense Studies at the National Defense University are civilians.

(c) REPORT.—Not later than twelve months after the date of enactment of this Act, the Secretary of Defense, in consultation with the Secretary of State, shall report in writing to the appropriate committees of the Congress on the progress made to improve military training of Latin American participants in the areas of human rights and civilian control of the military. The Secretary shall include in the report plans for implementing additional expanded IMET programs for Latin America during the next three fiscal years.

#### AID TO THE GOVERNMENT OF THE DEMOCRATIC REPUBLIC OF CONGO

SEC. 585. None of the funds appropriated or otherwise made available by this Act may be provided to the central Government of the Democratic Republic of Congo until such time as the President reports in writing to the Congress that the central Government of the Democratic Republic of Congo is cooperating fully with investigators from the United Nations in accounting for human rights violations committed in the Democratic Republic of Congo or adjacent countries.

#### ASSISTANCE FOR THE MIDDLE EAST

SEC. 586. Of the funds appropriated by this Act under the headings "Economic Support Fund", "Foreign Military Financing", "International Military Education and Training", "Peacekeeping Operations", for refugees resettling in Israel under the heading "Migration and Refugee Assistance", and for assistance for Israel to carry out provisions of chapter 8 of part II of the Foreign Assistance Act of 1961 under the heading "Nonproliferation, Anti-Terrorism, Demining, and Related Programs", not more than a total of \$5,402,850,000 may be made available for Israel, Egypt, Jordan, Lebanon, the West Bank and Gaza, the Israel-Lebanon Monitoring Group, the Multinational Force and Observers, the Middle East Regional Democracy

Fund, Middle East Regional Cooperation, and Middle East Multilateral Working Groups: Provided, That any funds that were appropriated under such headings in prior fiscal years and that were at the time of enactment of this Act obligated or allocated for other recipients may not during fiscal year 1998 be made available for activities that, if funded under this Act, would be required to count against this ceiling: Provided further, That funds may be made available notwithstanding the requirements of this section if the President determines and certifies to the Committees on Appropriations that it is important to the national security interest of the United States to do so and any such additional funds shall only be provided through the regular notification procedures of the Committees on Appropriations.

#### AGRICULTURE

SEC. 587. The first proviso of subsection (k) under the heading "Assistance for the New Independent States of the Former Soviet Union" in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997, as contained in Public Law 104-208, is amended by striking "not less than" and inserting in lieu thereof "up to".

#### ENTERPRISE FUND RESTRICTIONS

SEC. 588. Section 201(l) of the Support for East European Democracy Act (22 U.S.C. 5421(l)) is amended to read as follows:

"(1) LIMITATION ON PAYMENTS TO ENTERPRISE FUND PERSONNEL.—

"(1) No part of the funds of an Enterprise Fund shall inure to the benefit of any board member, officer, or employee of such Enterprise Fund, except as salary or reasonable compensation for services subject to paragraph (2).

"(2) An Enterprise Fund shall not pay compensation for services to—

"(A) any board member of the Enterprise Fund, except for services as a board member; or  
 "(B) any firm, association, or entity in which a board member of the Enterprise Fund serves as partner, director, officer, or employee.

"(3) Nothing in paragraph (2) shall preclude payment for services performed before the date of enactment of this subsection nor for arrangements approved by the grantor and notified in writing to the Committees on Appropriations."

#### CAMBODIA

SEC. 589. The Secretary of the Treasury should instruct the United States Executive Directors of the international financial institutions to use the voice and vote of the United States to oppose loans to the Government of Cambodia, except loans to support basic human needs.

#### EXPORT FINANCING TRANSFER AUTHORITIES

SEC. 590. Not to exceed 5 percent of any appropriation other than for administrative expenses made available for fiscal year 1998 for programs under title I of this Act may be transferred between such appropriations for use for any of the purposes, programs and activities for which the funds in such receiving account may be used, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 25 percent by any such transfer: Provided, That the exercise of such authority shall be subject to the regular notification procedures of the Committees on Appropriations.

#### DEVELOPMENT CREDIT AUTHORITY

SEC. 591. For the cost, as defined in section 502 of the Congressional Budget Act of 1974, of direct loans and loan guarantees in support of the development objectives of the Foreign Assistance Act of 1961 (FAA), up to \$7,500,000, which amount may be derived by transfer from funds appropriated by this Act to carry out part I of the Foreign Assistance Act of 1961 and funds appropriated by this Act under the heading

"Assistance for Eastern Europe and the Baltic States", to remain available until expended: Provided, That up to \$500,000 of the funds appropriated by this Act under the heading "Operating Expenses of the Agency for International Development" may be made available for administrative expenses to carry out such programs: Provided further, That the provisions of section 107A(d) (relating to general provisions applicable to development credit authority) of the Foreign Assistance Act of 1961, as added by section 306 of H.R. 1486 as reported by the House Committee on International Relations on May 9, 1997, shall be applicable to direct loans and loan guarantees provided under this paragraph: Provided further, That direct loans or loan guarantees under this paragraph may not be provided until the Director of the Office of Management and Budget has certified to the Committees on Appropriations that the Agency for International Development has established a credit management system capable of effectively managing the credit programs funded under this heading, including that such system (1) can provide accurate and timely provision of loan and loan guarantee data, (2) contains information control systems for loan and loan guarantee data, (3) is adequately staffed, and (4) contains appropriate review and monitoring procedures.

#### FOREIGN ORGANIZATIONS THAT PERFORM OR PROMOTE ABORTION OVERSEAS

#### SEC. 592. (a) PERFORMANCE OF ABORTIONS.—

(1) Notwithstanding section 614 of the Foreign Assistance Act of 1961 or any other provision of law, no funds appropriated to the Agency for International Development for population planning activities or other population assistance for fiscal years 1998 and 1999 may be made available for any foreign private, nongovernmental, or multilateral organization until the organization certifies that it will not, during the period for which the funds are made available, perform abortions in any foreign country, except where the life of the mother would be endangered if the pregnancy were carried to term or in cases of forcible rape or incest.

(2) Paragraph (1) of this subsection may not be construed to apply to the treatment of injuries or illnesses caused by legal or illegal abortions or to assistance provided directly to the government of a country.

(b) LOBBYING ACTIVITIES.—(1) Notwithstanding section 614 of the Foreign Assistance Act of 1961 or any other provision of law, no funds appropriated to the Agency for International Development for population planning activities or other population assistance for fiscal years 1998 and 1999 may be made available for any foreign private, nongovernmental, or multilateral organization until the organization certifies that it will not, during the period for which the funds are made available, violate the laws of any foreign country concerning the circumstances under which abortion is permitted, regulated, or prohibited, or engage in any activity or effort to alter the laws or governmental policies of any foreign country concerning the circumstances under which abortion is permitted, regulated, or prohibited.

(2) Paragraph (1) of this subsection shall not apply to activities in opposition to coercive abortion or involuntary sterilization.

(c) APPLICATION TO FOREIGN ORGANIZATIONS.—The restrictions in this section apply to funds made available to a foreign organization either directly or as a subcontractor or subgrantee, and the certifications required in subsections (a) and (b) apply to activities in which the organization engages either directly or through a subcontractor or subgrantee.

(d) For each of fiscal years 1998 and 1999, the President may waive the restrictions in subsections (a) and (b): Provided, That if the President waives the restriction in either subsection

(a) or (b), not to exceed \$410,000,000 may be made available for population planning activities or other population assistance: Provide further, That if the President waives the restrictions in both subsections (a) and (b), not to exceed \$385,000,000 may be made available for population planning activities or other population assistance.

#### INTERNATIONAL MONETARY PROGRAMS

##### LOANS TO INTERNATIONAL MONETARY FUND

SEC. 593. For loans to the International Monetary Fund under the New Arrangements to Borrow, the dollar equivalent of 2,462,000,000 Special Drawing Rights, to remain available until expended; in addition, up to the dollar equivalent of 4,250,000,000 Special Drawing Rights previously appropriated by the Act of November 30, 1983 (Public Law 98-181), and the Act of October 23, 1962 (Public Law 87-872), for the General Arrangements to Borrow, may also be used for the New Arrangements to Borrow.

Section 17 of the Bretton Woods Agreements Act, as amended (22 U.S.C. 286e-2 et seq.) is amended as follows—

(1) Section 17(a) is amended by striking "and February 24, 1983" and inserting instead "February 24, 1983, and January 27, 1997"; and by striking "4,250,000,000" and inserting instead "6,712,000,000".

(2) Section 17(b) is amended by striking "4,250,000,000" and inserting instead "6,712,000,000".

(3) Section 17(d) is amended by inserting "or the Decision of January 27, 1997," after "February 24, 1983,"; and by inserting "or the New Arrangements to Borrow, as applicable" before the period at the end.

This division may be cited as the "Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998".

#### **DIVISION D—FOREIGN AFFAIRS REFORM AND RESTRUCTURING ACT OF 1997**

##### **SEC. 1001. SHORT TITLE.**

This division may be cited as the "Foreign Affairs Reform and Restructuring Act of 1997".

##### **SEC. 1002. ORGANIZATION OF DIVISION INTO SUBDIVISIONS; TABLE OF CONTENTS.**

(a) SUBDIVISIONS.—This division is organized into three subdivisions as follows:

(1) SUBDIVISION 1.—Foreign Affairs Agencies Consolidation Act of 1997.

(2) SUBDIVISION 2.—Foreign Relations Authorization Act, Fiscal Years 1998 and 1999.

(3) SUBDIVISION 3.—United Nations Reform Act of 1997.

(b) TABLE OF CONTENTS.—The table of contents for this division is as follows:

Sec. 1001. Short title.

Sec. 1002. Organization of division into subdivisions; table of contents.

##### SUBDIVISION 1—CONSOLIDATION OF FOREIGN AFFAIRS AGENCIES

#### TITLE XI—GENERAL PROVISIONS

Sec. 1101. Short title.

Sec. 1102. Purposes.

Sec. 1103. Definitions.

Sec. 1104. Report on budgetary cost savings resulting from reorganization.

#### TITLE XII—UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY

##### CHAPTER 1—GENERAL PROVISIONS

Sec. 1201. Effective date.

##### CHAPTER 2—ABOLITION AND TRANSFER OF FUNCTIONS

Sec. 1211. Abolition of United States Arms Control and Disarmament Agency.

Sec. 1212. Transfer of functions to Secretary of State.

Sec. 1213. Under Secretary for Arms Control and International Security.

#### CHAPTER 3—CONFORMING AMENDMENTS

Sec. 1221. References.

Sec. 1222. Repeals.

Sec. 1223. Amendments to the Arms Control and Disarmament Act.

Sec. 1224. Compensation of officers.

Sec. 1225. Additional conforming amendments.

#### TITLE XIII—UNITED STATES INFORMATION AGENCY

##### CHAPTER 1—GENERAL PROVISIONS

Sec. 1301. Effective date.

##### CHAPTER 2—ABOLITION AND TRANSFER OF FUNCTIONS

Sec. 1311. Abolition of United States Information Agency.

Sec. 1312. Transfer of functions.

Sec. 1313. Under Secretary of State for Public Diplomacy.

Sec. 1314. Abolition of Office of Inspector General of United States Information Agency and transfer of functions.

##### CHAPTER 3—INTERNATIONAL BROADCASTING

Sec. 1321. Congressional findings and declaration of purpose.

Sec. 1322. Continued existence of Broadcasting Board of Governors.

Sec. 1323. Conforming amendments to the United States International Broadcasting Act of 1994.

Sec. 1324. Amendments to the Radio Broadcasting to Cuba Act.

Sec. 1325. Amendments to the Television Broadcasting to Cuba Act.

Sec. 1326. Transfer of broadcasting related funds, property, and personnel.

Sec. 1327. Savings provisions.

Sec. 1328. Report on the privatization of RFE/RL, Incorporated.

##### CHAPTER 4—CONFORMING AMENDMENTS

Sec. 1331. References.

Sec. 1332. Amendments to title 5, United States Code.

Sec. 1333. Application of certain laws.

Sec. 1334. Abolition of United States Advisory Commission on Public Diplomacy.

Sec. 1335. Conforming amendments.

Sec. 1336. Repeals.

#### TITLE XIV—UNITED STATES INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

##### CHAPTER 1—GENERAL PROVISIONS

Sec. 1401. Effective date.

##### CHAPTER 2—ABOLITION AND TRANSFER OF FUNCTIONS

Sec. 1411. Abolition of United States International Development Cooperation Agency.

Sec. 1412. Transfer of functions and authorities.

Sec. 1413. Status of AID.

##### CHAPTER 3—CONFORMING AMENDMENTS

Sec. 1421. References.

Sec. 1422. Conforming amendments.

#### TITLE XV—AGENCY FOR INTERNATIONAL DEVELOPMENT

##### CHAPTER 1—GENERAL PROVISIONS

Sec. 1501. Effective date.

##### CHAPTER 2—REORGANIZATION AND TRANSFER OF FUNCTIONS

Sec. 1511. Reorganization of Agency for International Development.

##### CHAPTER 3—AUTHORITIES OF THE SECRETARY OF STATE

Sec. 1521. Definition of United States assistance.

Sec. 1522. Administrator of AID reporting to the Secretary of State.

Sec. 1523. Assistance programs coordination and oversight.

#### TITLE XVI—TRANSITION

##### CHAPTER 1—REORGANIZATION PLAN

Sec. 1601. Reorganization plan and report.

##### CHAPTER 2—REORGANIZATION AUTHORITY

Sec. 1611. Reorganization authority.

Sec. 1612. Transfer and allocation of appropriations.

Sec. 1613. Transfer, appointment, and assignment of personnel.

Sec. 1614. Incidental transfers.

Sec. 1615. Savings provisions.

Sec. 1616. Authority of Secretary of State to facilitate transition.

Sec. 1617. Final report.

##### SUBDIVISION 2—FOREIGN RELATIONS AUTHORIZATION

#### TITLE XX—GENERAL PROVISIONS

Sec. 2001. Short title.

Sec. 2002. Definition of appropriate congressional committees.

#### TITLE XXI—AUTHORIZATION OF APPROPRIATIONS FOR DEPARTMENT OF STATE

Sec. 2101. Administration of foreign affairs.

Sec. 2102. International commissions.

Sec. 2103. Grants to The Asia Foundation.

#### TITLE XXII—DEPARTMENT OF STATE AUTHORITIES AND ACTIVITIES

##### CHAPTER 1—AUTHORITIES AND ACTIVITIES

Sec. 2201. Reimbursement of Department of State for assistance to overseas educational facilities.

Sec. 2202. Revision of Department of State rewards program.

Sec. 2203. Retention of additional defense trade controls registration fees.

Sec. 2204. Fees for commercial services.

Sec. 2205. Pilot program for foreign affairs reimbursement.

Sec. 2206. Fee for use of diplomatic reception rooms.

Sec. 2207. Accounting of collections in budget presentation documents.

Sec. 2208. Office of the Inspector General.

Sec. 2209. Capital Investment Fund.

Sec. 2210. Contracting for local guards services overseas.

Sec. 2211. Authority of the Foreign Claims Settlement Commission.

Sec. 2212. Expenses relating to certain international claims and proceedings.

Sec. 2213. Grants to remedy international abductions of children.

Sec. 2214. Counterdrug and anticrime activities of the Department of State.

Sec. 2215. Annual report on overseas surplus properties.

Sec. 2216. Human rights reports.

Sec. 2217. Reports and policy concerning diplomatic immunity.

Sec. 2218. Reaffirming United States international telecommunications policy.

Sec. 2219. Reduction of reporting.

##### CHAPTER 2—CONSULAR AUTHORITIES OF THE DEPARTMENT OF STATE

Sec. 2221. Use of certain passport processing fees for enhanced passport services.

Sec. 2222. Surcharge for processing certain machine readable visas.

Sec. 2223. Consular officers.

Sec. 2224. Repeal of outdated consular receipt requirements.

Sec. 2225. Elimination of duplicate Federal Register publication for travel advisories.

Sec. 2226. Denial of visas to confiscators of American property.

Sec. 2227. Inadmissibility of any alien supporting an international child abductor.

Sec. 2228. Haiti; exclusion of certain aliens; reporting requirements.

CHAPTER 3—REFUGEES AND MIGRATION

SUBCHAPTER A—AUTHORIZATION OF APPROPRIATIONS

Sec. 2231. Migration and refugee assistance.

SUBCHAPTER B—AUTHORITIES

Sec. 2241. United States policy regarding the involuntary return of refugees.

Sec. 2242. United States policy with respect to the involuntary return of persons in danger of subjection to torture.

Sec. 2243. Reprogramming of migration and refugee assistance funds.

Sec. 2244. Eligibility for refugee status.

Sec. 2245. Reports to Congress concerning Cuban emigration policies.

TITLE XXIII—ORGANIZATION OF THE DEPARTMENT OF STATE; DEPARTMENT OF STATE PERSONNEL; THE FOREIGN SERVICE

CHAPTER 1—ORGANIZATION OF THE DEPARTMENT OF STATE

Sec. 2301. Coordinator for Counterterrorism.

Sec. 2302. Elimination of Deputy Assistant Secretary of State for Burdensharing.

Sec. 2303. Personnel management.

Sec. 2304. Diplomatic security.

Sec. 2305. Number of senior official positions authorized for the Department of State.

Sec. 2306. Nomination of Under Secretaries and Assistant Secretaries of State.

CHAPTER 2—PERSONNEL OF THE DEPARTMENT OF STATE; THE FOREIGN SERVICE

Sec. 2311. Foreign Service reform.

Sec. 2312. Retirement benefits for involuntary separation.

Sec. 2313. Authority of Secretary to separate convicted felons from the Foreign Service.

Sec. 2314. Career counseling.

Sec. 2315. Limitations on management assignments.

Sec. 2316. Availability pay for certain criminal investigators within the Diplomatic Security Service.

Sec. 2317. Nonvertime differential pay.

Sec. 2318. Report concerning minorities and the Foreign Service.

TITLE XXIV—UNITED STATES INFORMATIONAL, EDUCATIONAL, AND CULTURAL PROGRAMS

CHAPTER 1—AUTHORIZATION OF APPROPRIATIONS

Sec. 2401. International information activities and educational and cultural exchange programs.

CHAPTER 2—AUTHORITIES AND ACTIVITIES

Sec. 2411. Retention of interest.

Sec. 2412. Use of selected program fees.

Sec. 2413. Muskie Fellowship Program.

Sec. 2414. Working Group on United States Government-Sponsored International Exchanges and Training.

Sec. 2415. Educational and cultural exchanges and scholarships for Tibetans and Burmese.

Sec. 2416. United States-Japan Commission.

Sec. 2417. Surrogate broadcasting study.

Sec. 2418. Radio broadcasting to Iran in the Farsi language.

Sec. 2419. Authority to administer summer travel and work programs.

Sec. 2420. Permanent administrative authorities regarding appropriations.

Sec. 2421. Voice of America broadcasts.

TITLE XXV—INTERNATIONAL ORGANIZATIONS OTHER THAN UNITED NATIONS

Sec. 2501. International conferences and contingencies.

Sec. 2502. Restriction relating to United States accession to any new international criminal tribunal.

Sec. 2503. United States membership in the Bureau of the Interparliamentary Union.

Sec. 2504. Service in international organizations.

Sec. 2505. Reports regarding foreign travel.

TITLE XXVI—UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY

Sec. 2601. Authorization of appropriations.

Sec. 2602. Statutory construction.

TITLE XXVII—EUROPEAN SECURITY ACT OF 1997

Sec. 2701. Short title.

Sec. 2702. Statement of policy.

Sec. 2703. Authorities relating to NATO enlargement.

Sec. 2704. Sense of Congress with respect to the Treaty on Conventional Armed Forces in Europe.

Sec. 2705. Restrictions and requirements relating to ballistic missile defense.

TITLE XXVIII—MISCELLANEOUS PROVISIONS

Sec. 2801. Report on relations with Vietnam.

Sec. 2802. Reports on determinations under title IV of the LIBERTAD Act.

SUBDIVISION 3—UNITED NATIONS REFORM

TITLE XXX—GENERAL PROVISIONS

Sec. 3001. Short title.

Sec. 3002. Definitions.

Sec. 3003. Nondelegation of certification requirements.

TITLE XXXI—AUTHORIZATION OF APPROPRIATIONS

Sec. 3101. Contributions to international organizations.

Sec. 3102. Contributions for international peacekeeping activities.

TITLE XXXII—UNITED NATIONS ACTIVITIES

Sec. 3201. United Nations policy on Israel and the Palestinians.

Sec. 3202. Data on costs incurred in support of United Nations peacekeeping operations.

Sec. 3203. Reimbursement for goods and services provided by the United States to the United Nations.

Sec. 3204. United States policy regarding United Nations peacekeeping operations.

Sec. 3205. Reform in budget decisionmaking procedures of the United Nations and its specialized agencies.

Sec. 3206. Continued extension of privileges, exemptions, and immunities of the International Organizations Immunities Act to UNIDO.

Sec. 3207. Sense of the Congress regarding compliance with child and spousal support obligations by United Nations personnel.

TITLE XXXIII—ARREARS PAYMENTS AND REFORM

CHAPTER 1—ARREARAGES TO THE UNITED NATIONS

SUBCHAPTER A—AUTHORIZATION OF APPROPRIATIONS; OBLIGATION AND EXPENDITURE OF FUNDS

Sec. 3301. Authorization of appropriations.

Sec. 3302. Obligation and expenditure of funds.

Sec. 3303. Forgiveness of amounts owed by the United Nations to the United States.

SUBCHAPTER B—UNITED STATES SOVEREIGNTY

Sec. 3311. Certification requirements.

SUBCHAPTER C—REFORM OF ASSESSMENTS AND UNITED NATIONS PEACEKEEPING OPERATIONS

Sec. 3321. Certification requirements.

SUBCHAPTER D—BUDGET AND PERSONNEL REFORM

Sec. 3331. Certification requirements.

CHAPTER 2—MISCELLANEOUS PROVISIONS

Sec. 3341. Statutory construction on relation to existing laws.

Sec. 3342. Prohibition on payments relating to UNIDO and other international organizations from which the United States has withdrawn or rescinded funding.

SUBDIVISION 1—CONSOLIDATION OF FOREIGN AFFAIRS AGENCIES

TITLE XI—GENERAL PROVISIONS

SEC. 1101. SHORT TITLE.

This subdivision may be cited as the "Foreign Affairs Agencies Consolidation Act of 1997".

SEC. 1102. PURPOSES.

The purposes of this subdivision are—

(1) to strengthen—  
(A) the coordination of United States foreign policy; and

(B) the leading role of the Secretary of State in the formulation and articulation of United States foreign policy;

(2) to consolidate and reinvigorate the foreign affairs functions of the United States within the Department of State by—

(A) abolishing the United States Arms Control and Disarmament Agency, the United States Information Agency, and the United States International Development Cooperation Agency, and transferring the functions of these agencies to the Department of State while preserving the special missions and skills of these agencies;

(B) transferring certain functions of the Agency for International Development to the Department of State; and

(C) providing for the reorganization of the Department of State to maximize the efficient use of resources, which may lead to budget savings, eliminated redundancy in functions, and improvement in the management of the Department of State;

(3) to ensure that programs critical to the promotion of United States national interests be maintained;

(4) to assist congressional efforts to balance the Federal budget and reduce the Federal debt;

(5) to ensure that the United States maintains effective representation abroad within budgetary restraints; and

(6) to encourage United States foreign affairs agencies to maintain a high percentage of the best qualified, most competent United States citizens serving in the United States Government.

SEC. 1103. DEFINITIONS.

In this subdivision:

(1) ACDA.—The term "ACDA" means the United States Arms Control and Disarmament Agency.

(2) AID.—The term "AID" means the United States Agency for International Development.

(3) AGENCY; FEDERAL AGENCY.—The term "agency" or "Federal agency" means an Executive agency as defined in section 105 of title 5, United States Code.

(4) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the Committee on International Relations and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

(5) COVERED AGENCY.—The term "covered agency" means any of the following agencies: ACDA, USA, IDCA, and AID.

(6) DEPARTMENT.—The term "Department" means the Department of State.

(7) FUNCTION.—The term "function" means any duty, obligation, power, authority, responsibility, right, privilege, activity, or program.

(8) IDCA.—The term "IDCA" means the United States International Development Cooperation Agency.

(9) OFFICE.—The term "office" includes any office, administration, agency, institute, unit, organizational entity, or component thereof.

(10) SECRETARY.—The term "Secretary" means the Secretary of State.

(11) USIA.—The term "USIA" means the United States Information Agency.

**SEC. 1104. REPORT ON BUDGETARY COST SAVINGS RESULTING FROM REORGANIZATION.**

The Secretary of State shall submit a report, together with the congressional presentation document for the budget of the Department of State for each of the fiscal years 1999, 2000, and 2001, to the appropriate congressional committees describing the total anticipated and achieved cost savings in budget outlays and budget authority related to the reorganization implemented under this subdivision, including cost savings by each of the following categories:

(1) Reductions in personnel.

(2) Administrative consolidation, including procurement.

(3) Program consolidation.

(4) Consolidation of real properties and leases.

**TITLE XII—UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY**  
**CHAPTER 1—GENERAL PROVISIONS**

**SEC. 1201. EFFECTIVE DATE.**

This title, and the amendments made by this title, shall take effect on the earlier of—

- (1) October 1, 1998; or
- (2) the date of abolition of the United States Arms Control and Disarmament Agency pursuant to the reorganization plan described in section 1601.

**CHAPTER 2—ABOLITION AND TRANSFER OF FUNCTIONS**

**SEC. 1211. ABOLITION OF UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY.**

The United States Arms Control and Disarmament Agency is abolished.

**SEC. 1212. TRANSFER OF FUNCTIONS TO SECRETARY OF STATE.**

There are transferred to the Secretary of State all functions of the Director of the United States Arms Control and Disarmament Agency, and all functions of the United States Arms Control and Disarmament Agency and any office or component of such agency, under any statute, reorganization plan, Executive order, or other provision of law, as of the day before the effective date of this title.

**SEC. 1213. UNDER SECRETARY FOR ARMS CONTROL AND INTERNATIONAL SECURITY.**

Section 1(b) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651(b)) is amended—

(1) by striking "There" and inserting the following:

"(1) IN GENERAL.—There"; and

(2) by adding at the end the following:

"(2) UNDER SECRETARY FOR ARMS CONTROL AND INTERNATIONAL SECURITY.—There shall be in the Department of State, among the Under Secretaries authorized by paragraph (1), an Under Secretary for Arms Control and International Security, who shall assist the Secretary and the Deputy Secretary in matters related to international security policy, arms control, and nonproliferation. Subject to the direction of the President, the Under Secretary may attend and participate in meetings of the National Security Council in his role as advisor on arms control and nonproliferation matters."

**CHAPTER 3—CONFORMING AMENDMENTS**

**SEC. 1221. REFERENCES.**

Except as otherwise provided in section 1223 or 1225, any reference in any statute, reorga-

nization plan, Executive order, regulation, agreement, determination, or other official document or proceeding to—

(1) the Director of the United States Arms Control and Disarmament Agency, the Director of the Arms Control and Disarmament Agency, or any other officer or employee of the United States Arms Control and Disarmament Agency or the Arms Control and Disarmament Agency shall be deemed to refer to the Secretary of State; or

(2) the United States Arms Control and Disarmament Agency or the Arms Control and Disarmament Agency shall be deemed to refer to the Department of State.

**SEC. 1222. REPEALS.**

The following sections of the Arms Control and Disarmament Act (22 U.S.C. 2551 et seq.) are repealed: Sections 21 through 26 (22 U.S.C. 2561–2566), section 35 (22 U.S.C. 2575), section 42 (22 U.S.C. 2582), section 43 (22 U.S.C. 2583), sections 45 through 50 (22 U.S.C. 2585–2593), section 53 (22 U.S.C. 2593c), section 54 (22 U.S.C. 2593d), and section 63 (22 U.S.C. 2595b).

**SEC. 1223. AMENDMENTS TO THE ARMS CONTROL AND DISARMAMENT ACT.**

The Arms Control and Disarmament Act (22 U.S.C. 2551 et seq.) is amended—

(1) in section 2 (22 U.S.C. 2551)—

(A) in the first undesignated paragraph, by striking "creating a new agency of peace to deal with" and inserting "addressing";

(B) by striking the second undesignated paragraph; and

(C) in the third undesignated paragraph—

(i) by striking "This organization" and inserting "The Secretary of State";

(ii) by striking "It shall have" and inserting "The Secretary shall have";

(iii) by striking "and the Secretary of State";

(iv) by inserting "nonproliferation," after "arms control" in paragraph (1);

(v) by striking paragraph (2);

(vi) by redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively; and

(vii) by striking "as appropriate," in paragraph (3) (as redesignated);

(2) in section 3 (22 U.S.C. 2552), by striking subsection (c);

(3) in the heading for title II, by striking "ORGANIZATION" and inserting "SPECIAL REPRESENTATIVES AND VISITING SCHOLARS";

(4) in section 27 (22 U.S.C. 2567)—

(A) by striking the third sentence;

(B) in the fourth sentence, by striking "acting through the Director"; and

(C) in the fifth sentence, by striking "Agency" and inserting "Department of State";

(5) in section 28 (22 U.S.C. 2568)—

(A) by striking "Director" each place it appears and inserting "Secretary of State";

(B) in the second sentence—

(i) by striking "Agency" each place it appears and inserting "Department of State"; and

(ii) by striking "Agency's" and inserting "Department of State's"; and

(C) by striking the fourth sentence;

(6) in section 31 (22 U.S.C. 2571)—

(A) by inserting "this title in" after "powers in";

(B) by striking "Director" each place it appears and inserting "Secretary of State";

(C) by striking "insure" each place it appears and inserting "ensure";

(D) in the second sentence, by striking "in accordance with procedures established under section 35 of this Act";

(E) in the fourth sentence by striking "The authority" and all that follows through "disarmament:" and inserting the following: "The authority of the Secretary under this Act with respect to research, development, and other stud-

ies concerning arms control, nonproliferation, and disarmament shall be limited to participation in the following:"; and

(F) in subsection (1), by inserting "and" at the end;

(7) in section 32 (22 U.S.C. 2572)—

(A) by striking "Director" and inserting "Secretary of State"; and

(B) by striking "subsection" and inserting "section";

(8) in section 33(a) (22 U.S.C. 2573(a))—

(A) by striking "the Secretary of State,"; and

(B) by striking "Director" and inserting "Secretary of State";

(9) in section 34 (22 U.S.C. 2574)—

(A) in subsection (a)—

(i) in the first sentence, by striking "Director" and inserting "Secretary of State";

(ii) in the first sentence, by striking "and the Secretary of State";

(iii) in the first sentence, by inserting "nonproliferation," after "in the fields of arms control";

(iv) in the first sentence, by striking "and shall have primary responsibility, whenever directed by the President, for the preparation, conduct, and management of the United States participation in international negotiations and implementation fora in the field of nonproliferation";

(v) in the second sentence, by striking "section 27" and inserting "section 201"; and

(vi) in the second sentence, by striking "the" after "serve as";

(B) by striking subsection (b);

(C) by redesignating subsection (c) as subsection (b); and

(D) in subsection (b) (as redesignated)—

(i) in the text above paragraph (1), by striking "Director" and inserting "Secretary of State";

(ii) by striking paragraph (1); and

(iii) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively;

(10) in section 36 (22 U.S.C. 2576)—

(A) by striking "Director" each place it appears and inserting "Secretary of State"; and

(B) by striking "in accordance with the procedures established pursuant to section 35 of this Act,";

(11) in section 37 (22 U.S.C. 2577)—

(A) by striking "Director" and "Agency" each place it appears and inserting "Secretary of State" or "Department of State", respectively; and

(B) by striking subsection (d);

(12) in section 38 (22 U.S.C. 2578)—

(A) by striking "Director" each place it appears and inserting "Secretary of State"; and

(B) by striking subsection (c);

(13) in section 41 (22 U.S.C. 2581)—

(A) by striking "In the performance of his functions, the Director" and inserting "In addition to any authorities otherwise available, the Secretary of State in the performance of functions under this Act";

(B) by striking "Agency", "Agency's", "Director", and "Director's" each place they appear and inserting "Department of State", "Department of State's", "Secretary of State", or "Secretary of State's", as appropriate;

(C) in subsection (a), by striking the sentence that begins "It is the intent";

(D) in subsection (b)—

(i) by striking "appoint officers and employees, including attorneys, for the Agency in accordance with the provisions of title 5, United States Code, governing appointment in the competitive service, and fix their compensation in accordance with chapter 51 and with subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates, except that the Director may, to the extent the Director determines necessary to the discharge of his responsibilities,";

(ii) in paragraph (1), by striking "exception" and inserting "subsection"; and

(iii) in paragraph (2)—

(I) by striking "exception" and inserting "subsection"; and

(II) by striking "ceiling" and inserting "positions allocated to carry out the purpose of this Act";

(E) by striking subsection (g);

(F) by redesignating subsections (h), (i), and (j) as subsections (g), (h), and (i), respectively;

(G) by amending subsection (f) to read as follows:

"(f) establish a scientific and policy advisory board to advise with and make recommendations to the Secretary of State on United States arms control, nonproliferation, and disarmament policy and activities. A majority of the board shall be composed of individuals who have a demonstrated knowledge and technical expertise with respect to arms control, nonproliferation, and disarmament matters and who have distinguished themselves in any of the fields of physics, chemistry, mathematics, biology, or engineering, including weapons engineering. The members of the board may receive the compensation and reimbursement for expenses specified for consultants by subsection (d) of this section"; and

(H) in subsection (h) (as redesignated), by striking "Deputy Director" and inserting "Under Secretary for Arms Control and International Security";

(14) in section 44 (22 U.S.C. 2584)—

(A) by striking "CONFLICT-OF-INTEREST AND";

(B) by striking "The members" and all that follows through "(5 U.S.C. 2263), or any other" and inserting "Members of advisory boards and consultants may serve as such without regard to any"; and

(C) by inserting at the end the following new sentence: "This section shall apply only to individuals carrying out activities related to arms control, nonproliferation, and disarmament.";

(15) in section 51 (22 U.S.C. 2593a)—

(A) in subsection (a)—

(i) in paragraphs (1) and (3), by inserting "nonproliferation," after "arms control" each place it appears;

(ii) by striking "Director, in consultation with the Secretary of State," and inserting "Secretary of State with the concurrence of the Director of Central Intelligence and in consultation with";

(iii) by striking "the Chairman of the Joint Chiefs of Staff, and the Director of Central Intelligence" and inserting "and the Chairman of the Joint Chiefs of Staff";

(iv) by striking paragraphs (2) and (4); and

(v) by redesignating paragraphs (3), (5), (6), and (7) as paragraphs (2) through (5), respectively; and

(B) by adding at the end of subsection (b) the following: "The portions of this report described in paragraphs (4) and (5) of subsection (a) shall summarize in detail, at least in classified annexes, the information, analysis, and conclusions relevant to possible noncompliance by other nations that are provided by United States intelligence agencies.";

(16) in section 52 (22 U.S.C. 2593b), by striking "Director" and inserting "Secretary of State";

(17) in section 61 (22 U.S.C. 2593a)—

(A) in paragraph (1), by striking "United States Arms Control and Disarmament Agency" and inserting "Department of State";

(B) by striking paragraph (2);

(C) by redesignating paragraphs (3) through (7) as paragraphs (2) through (6), respectively;

(D) in paragraph (4) (as redesignated), by striking "paragraph (4)" and inserting "paragraph (3)"; and

(E) in paragraph (6) (as redesignated), by striking "United States Arms Control and Disarmament Agency and the";

(18) in section 62 (22 U.S.C. 2595a)—

(A) in subsection (c)—

(i) in the subsection heading, by striking "DIRECTOR" and inserting "SECRETARY OF STATE"; and

(ii) by striking "2(d), 22, and 34(c)" and inserting "102(3) and 304(b)"; and

(B) by striking "Director" and inserting "Secretary of State";

(19) in section 64 (22 U.S.C. 2595b-1)—

(A) by striking the section title and inserting "SEC. 503. REVIEW OF CERTAIN REPROGRAMMING NOTIFICATIONS.";

(B) by striking subsection (a); and

(C) in subsection (b)—

(i) by striking "(b) REVIEW OF CERTAIN REPROGRAMMING NOTIFICATIONS.—"; and

(ii) by striking "Foreign Affairs" and inserting "International Relations";

(20) in section 65(1) (22 U.S.C. 2595c(1)) by inserting "of America" after "United States"; and

(21) by redesignating sections 1, 2, 3, 27, 28, 31, 32, 33, 34, 36, 37, 38, 39, 41, 44, 51, 52, 61, 62, 64, and 65, as amended by this section, as sections 101, 102, 103, 201, 202, 301, 302, 303, 304, 305, 306, 307, 308, 401, 402, 403, 404, 501, 502, 503, and 504, respectively.

#### SEC. 1224. COMPENSATION OF OFFICERS.

Title 5, United States Code, is amended—

(1) in section 5313, by striking "Director of the United States Arms Control and Disarmament Agency.";

(2) in section 5314, by striking "Deputy Director of the United States Arms Control and Disarmament Agency.";

(3) in section 5315—

(A) by striking "Assistant Directors, United States Arms Control and Disarmament Agency (4)."; and

(B) by striking "Special Representatives of the President for arms control, nonproliferation, and disarmament matters, United States Arms Control and Disarmament Agency", and inserting "Special Representatives of the President for arms control, nonproliferation, and disarmament matters, Department of State"; and

(4) in section 5316, by striking "General Counsel of the United States Arms Control and Disarmament Agency.".

#### SEC. 1225. ADDITIONAL CONFORMING AMENDMENTS.

(a) ARMS EXPORT CONTROL ACT.—The Arms Export Control Act is amended—

(1) in section 36(b)(1)(D) (22 U.S.C. 2776(b)(1)(D)), by striking "Director of the Arms Control and Disarmament Agency in consultation with the Secretary of State and the Secretary of Defense" and inserting "Secretary of State in consultation with the Secretary of Defense and the Director of Central Intelligence";

(2) in section 38(a)(2) (22 U.S.C. 2778(a)(2))—

(A) in the first sentence, by striking "be made in coordination with the Director of the United States Arms Control and Disarmament Agency, taking into account the Director's assessment as to" and inserting "take into account"; and

(B) by striking the second sentence;

(3) in section 42(a) (22 U.S.C. 2791(a))—

(A) in paragraph (1)(C), by striking "the assessment of the Director of the United States Arms Control and Disarmament Agency as to";

(B) by striking "(1)" after "(a)"; and

(C) by striking paragraph (2);

(4) in section 71(a) (22 U.S.C. 2797(a)), by striking "the Director of the Arms Control and Disarmament Agency";

(5) in section 71(b)(1) (22 U.S.C. 2797(b)(1)), by striking "and the Director of the United States Arms Control and Disarmament Agency";

(6) in section 71(b)(2) (22 U.S.C. 2797(b)(2))—

(A) by striking "the Secretary of Commerce, and the Director of the United States Arms Control and Disarmament Agency" and inserting "and the Secretary of Commerce"; and

(B) by striking "or the Director";

(7) in section 71(c) (22 U.S.C. 2797(c)), by striking "with the Director of the United States Arms Control and Disarmament Agency"; and

(8) in section 73(d) (22 U.S.C. 2797b(d)), by striking "the Secretary of Commerce, and the Director of the United States Arms Control and Disarmament Agency" and inserting "and the Secretary of Commerce".

(b) FOREIGN ASSISTANCE ACT.—Section 511 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321d) is amended by striking "be made in coordination with the Director of the United States Arms Control and Disarmament Agency and shall take into account his opinion as to" and inserting "take into account".

(c) UNITED STATES INSTITUTE OF PEACE ACT.—(1) Section 1706(b) of the United States Institute of Peace Act (22 U.S.C. 4605(b)) is amended—

(A) by striking paragraph (3);

(B) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively; and

(C) in paragraph (4) (as redesignated), by striking "Eleven" and inserting "Twelve".

(2) Section 1707(d)(2) of that Act (22 U.S.C. 4606(d)(2)) is amended by striking "Director of the Arms Control and Disarmament Agency".

(d) ATOMIC ENERGY ACT OF 1954.—The Atomic Energy Act of 1954 is amended—

(1) in section 57b. (42 U.S.C. 2077(b))—

(A) in the first sentence, by striking "the Arms Control and Disarmament Agency"; and

(B) in the second sentence, by striking "the Director of the Arms Control and Disarmament Agency";

(2) in section 109b. (42 U.S.C. 2129(b)), by striking "and the Director";

(3) in section 111b. (42 U.S.C. 2131(b)) by striking "the Arms Control and Disarmament Agency, the Nuclear Regulatory Commission," and inserting "the Nuclear Regulatory Commission";

(4) in section 123 (42 U.S.C. 2153)—

(A) in subsection a., in the third sentence—

(i) by striking "and in consultation with the Director of the Arms Control and Disarmament Agency ('the Director)";

(ii) by inserting "and" after "Energy,";

(iii) by striking "Commission, and the Director, who" and inserting "Commission. The Secretary of State"; and

(iv) after "nuclear explosive purpose," by inserting the following new sentence: "Each Nuclear Proliferation Assessment Statement prepared pursuant to this Act shall be accompanied by a classified annex, prepared in consultation with the Director of Central Intelligence, summarizing relevant classified information.";

(B) in subsection d., in the first proviso—

(i) by striking "Nuclear Proliferation Assessment Statement prepared by the Director of the Arms Control and Disarmament Agency," and inserting "Nuclear Proliferation Assessment Statement prepared by the Secretary of State, and any annexes thereto,"; and

(ii) by striking "has been" and inserting "have been"; and

(C) in the first undesignated paragraph following subsection d., by striking "the Arms Control and Disarmament Agency";

(5) in section 126a.(1), by striking "the Director of the Arms Control and Disarmament Agency, and the Nuclear Regulatory Commission" and inserting "and the Nuclear Regulatory Commission.";

(6) in section 131a. (42 U.S.C. 2160(a))—

(A) in paragraph (1)—

(i) in the first sentence, by striking "the Director";

(ii) in the third sentence, by striking "the Director declares that he intends" and inserting "the Secretary of State is required"; and

(iii) in the third sentence, by striking "the Director's declaration" and inserting "the requirement to prepare a Nuclear Proliferation Assessment Statement";

(B) in paragraph (2)—

(i) by striking "Director's view" and inserting "view of the Secretary of State, Secretary of Energy, Secretary of Defense, or the Commission"; and

(ii) by striking "he may prepare" and inserting "the Secretary of State, in consultation with such Secretary or the Commission, shall prepare"; and

(7) in section 131c. (42 U.S.C. 2160(c))—

(A) in the first sentence, by striking "the Director of the Arms Control and Disarmament Agency";

(B) in the sixth and seventh sentences, by striking "Director" each place it appears and inserting "Secretary of State"; and

(C) in the seventh sentence, by striking "Director's" and inserting "Secretary of State's".

(e) NUCLEAR NON-PROLIFERATION ACT OF 1978.—The Nuclear Non-Proliferation Act of 1978 is amended—

(1) in section 4 (22 U.S.C. 3203)—

(A) by striking paragraph (2); and

(B) by redesignating paragraphs (3) through (8) as paragraphs (2) through (7), respectively;

(2) in section 102 (22 U.S.C. 3222), by striking "the Secretary of State, and the Director of the Arms Control and Disarmament Agency" and inserting "and the Secretary of State";

(3) in section 304(d) (42 U.S.C. 2156a), by striking "the Secretary of Defense, and the Director," and inserting "and the Secretary of Defense";

(4) in section 309 (42 U.S.C. 2139a)—

(A) in subsection (b), by striking "the Department of Commerce, and the Arms Control and Disarmament Agency" and inserting "and the Department of Commerce"; and

(B) in subsection (c), by striking "the Arms Control and Disarmament Agency";

(5) in section 406 (42 U.S.C. 2160a), by inserting "or any annexes thereto," after "Statement"; and

(6) in section 602 (22 U.S.C. 3282)—

(A) in subsection (c), by striking "the Arms Control and Disarmament Agency"; and

(B) in subsection (e), by striking "and the Director".

(f) STATE DEPARTMENT BASIC AUTHORITIES ACT OF 1956.—Section 23(a) of the State Department basic Authorities Act of 1956 (22 U.S.C. 2695(a)) is amended by striking "the Agency for International Development, and the Arms Control and Disarmament Agency" and inserting "and the Agency for International Development".

(g) FOREIGN RELATIONS AUTHORIZATION ACT OF 1972.—Section 502 of the Foreign Relations Authorization Act of 1972 (2 U.S.C. 194a) is amended by striking "the United States Arms Control and Disarmament Agency".

(h) TITLE 49.—Section 40118(d) of title 49, United States Code, is amended by striking "or the Director of the Arms Control and Disarmament Agency".

### TITLE XIII—UNITED STATES INFORMATION AGENCY

#### CHAPTER 1—GENERAL PROVISIONS

##### SEC. 1301. EFFECTIVE DATE.

This title, and the amendments made by this title, shall take effect on the earlier of—

(1) October 1, 1999; or

(2) the date of abolition of the United States Information Agency pursuant to the reorganization plan described in section 1601.

#### CHAPTER 2—ABOLITION AND TRANSFER OF FUNCTIONS

##### SEC. 1311. ABOLITION OF UNITED STATES INFORMATION AGENCY.

The United States Information Agency (other than the Broadcasting Board of Governors and the International Broadcasting Bureau) is abolished.

##### SEC. 1312. TRANSFER OF FUNCTIONS.

(a) IN GENERAL.—There are transferred to the Secretary of State all functions of the Director of the United States Information Agency and all functions of the United States Information Agency and any office or component of such agency, under any statute, reorganization plan, Executive order, or other provision of law, as of the day before the effective date of this title.

(b) EXCEPTION.—Subsection (a) does not apply to the Broadcasting Board of Governors, the International Broadcasting Bureau, or any function performed by the Board or the Bureau.

##### SEC. 1313. UNDER SECRETARY OF STATE FOR PUBLIC DIPLOMACY.

Section 1(b) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a(b)), as amended by this division, is further amended by adding at the end the following new paragraph:

"(3) UNDER SECRETARY FOR PUBLIC DIPLOMACY.—There shall be in the Department of State, among the Under Secretaries authorized by paragraph (1), an Under Secretary for Public Diplomacy, who shall have primary responsibility to assist the Secretary and the Deputy Secretary in the formation and implementation of United States public diplomacy policies and activities, including international educational and cultural exchange programs, information, and international broadcasting."

##### SEC. 1314. ABOLITION OF OFFICE OF INSPECTOR GENERAL OF UNITED STATES INFORMATION AGENCY AND TRANSFER OF FUNCTIONS.

(a) ABOLITION OF OFFICE.—The Office of Inspector General of the United States Information Agency is abolished.

(b) AMENDMENTS TO INSPECTOR GENERAL ACT OF 1978.—Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in paragraph (1), by striking "the Office of Personnel Management, the United States Information Agency" and inserting "or the Office of Personnel Management"; and

(2) in paragraph (2), by striking "the United States Information Agency";

(c) EXECUTIVE SCHEDULE.—Section 5315 of title 5, United States Code, is amended by striking the following:

"Inspector General, United States Information Agency."

(d) AMENDMENTS TO PUBLIC LAW 103-236.—Subsections (i) and (j) of section 308 of the United States International Broadcasting Act of 1994 (22 U.S.C. 6207 (i) and (j)) are amended—

(1) by striking "Inspector General of the United States Information Agency" each place it appears and inserting "Inspector General of the Department of State and the Foreign Service"; and

(2) by striking "the Director of the United States Information Agency";

(e) TRANSFER OF FUNCTIONS.—There are transferred to the Office of the Inspector General of the Department of State and the Foreign Service the functions that the Office of Inspector General of the United States Information Agency exercised before the effective date of this title (including all related functions of the Inspector General of the United States Information Agency).

#### CHAPTER 3—INTERNATIONAL BROADCASTING

##### SEC. 1321. CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSE.

Congress finds that—

(1) it is the policy of the United States to promote the right of freedom of opinion and expression, including the freedom "to seek, receive, and impart information and ideas through any media and regardless of frontiers", in accordance with Article 19 of the Universal Declaration of Human Rights;

(2) open communication of information and ideas among the peoples of the world contributes

to international peace and stability, and the promotion of such communication is in the interests of the United States;

(3) it is in the interest of the United States to support broadcasting to other nations consistent with the requirements of this chapter and the United States International Broadcasting Act of 1994; and

(4) international broadcasting is, and should remain, an essential instrument of United States foreign policy.

##### SEC. 1322. CONTINUED EXISTENCE OF BROADCASTING BOARD OF GOVERNORS.

Section 304(a) of the United States International Broadcasting Act of 1994 (22 U.S.C. 6203(a)) is amended to read as follows:

"(a) CONTINUED EXISTENCE WITHIN EXECUTIVE BRANCH.—

"(1) IN GENERAL.—The Broadcasting Board of Governors shall continue to exist within the Executive branch of Government as an entity described in section 104 of title 5, United States Code.

"(2) RETENTION OF EXISTING BOARD MEMBERS.—The members of the Broadcasting Board of Governors appointed by the President pursuant to subsection (b)(1)(A) before the effective date of title XIII of the Foreign Affairs Agencies Consolidation Act of 1997 and holding office as of that date may serve the remainder of their terms of office without reappointment.

"(3) INSPECTOR GENERAL AUTHORITIES.—

"(A) IN GENERAL.—The Inspector General of the Department of State and the Foreign Service shall exercise the same authorities with respect to the Broadcasting Board of Governors and the International Broadcasting Bureau as the Inspector General exercises under the Inspector General Act of 1978 and section 209 of the Foreign Service Act of 1980 with respect to the Department of State.

"(B) RESPECT FOR JOURNALISTIC INTEGRITY OF BROADCASTERS.—The Inspector General shall respect the journalistic integrity of all the broadcasters covered by this title and may not evaluate the philosophical or political perspectives reflected in the content of broadcasts."

##### SEC. 1323. CONFORMING AMENDMENTS TO THE UNITED STATES INTERNATIONAL BROADCASTING ACT OF 1994.

(a) REFERENCES IN SECTION.—Whenever in this section an amendment or repeal is expressed as an amendment or repeal of a provision, the reference shall be deemed to be made to the United States International Broadcasting Act of 1994 (22 U.S.C. 6201 et seq.).

(b) SUBSTITUTION OF SECRETARY OF STATE.—Sections 304(b)(1)(B), 304(b)(2) and (3), 304(c), and 304(e) (22 U.S.C. 6203(b)(1)(B), 6203(b)(2) and (3), 6203(c), and 6203(e)) are amended by striking "Director of the United States Information Agency" each place it appears and inserting "Secretary of State".

(c) SUBSTITUTION OF ACTING SECRETARY OF STATE.—Section 304(c) (22 U.S.C. 6203(c)) is amended by striking "acting Director of the agency" and inserting "Acting Secretary of State".

(d) STANDARDS AND PRINCIPLES OF INTERNATIONAL BROADCASTING.—Section 303(b) (22 U.S.C. 6202(b)) is amended—

(1) in paragraph (3), by inserting "including editorials, broadcast by the Voice of America, which present the views of the United States Government" after "policies";

(2) by redesignating paragraphs (4) through (9) as paragraphs (5) through (10), respectively; and

(3) by inserting after paragraph (3) the following:

"(4) the capability to provide a surge capacity to support United States foreign policy objectives during crises abroad";

(e) AUTHORITIES OF THE BOARD.—Section 305(a) (22 U.S.C. 6204(a)) is amended—

(1) in paragraph (1)—  
 (A) by striking "direct and"; and  
 (B) by striking "and the Television Broadcasting to Cuba Act" and inserting ", the Television Broadcasting to Cuba Act, and Worldnet Television, except as provided in section 306(b)";  
 (2) in paragraph (4), by inserting ", after consultation with the Secretary of State," after "annually,";

(3) in paragraph (9)—  
 (A) by striking ", through the Director of the United States Information Agency,"; and  
 (B) by adding at the end the following new sentence: "Each annual report shall place special emphasis on the assessment described in paragraph (2).";

(4) in paragraph (12)—  
 (A) by striking "1994 and 1995" and inserting "1998 and 1999"; and

(B) by striking "to the Board for International Broadcasting for such purposes for fiscal year 1993" and inserting "to the Board and the International Broadcasting Bureau for such purposes for fiscal year 1997"; and

(5) by adding at the end the following new paragraphs:

"(15)(A) To procure temporary and intermittent personal services to the same extent as is authorized by section 3109 of title 5, United States Code, at rates not to exceed the daily equivalent of the rate provided for positions classified above grade GS-15 of the General Schedule under section 5108 of title 5, United States Code.

"(B) To allow those providing such services, while away from their homes or their regular places of business, travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently, while so employed.

"(16) To procure, pursuant to section 1535 of title 31, United States Code (commonly known as the 'Economy Act'), such goods and services from other departments or agencies for the Board and the International Broadcasting Bureau as the Board determines are appropriate.

"(17) To utilize the provisions of titles III, IV, V, VII, VIII, IX, and X of the United States Information and Educational Exchange Act of 1948, and section 6 of Reorganization Plan Number 2 of 1977, as in effect on the day before the effective date of title XIII of the Foreign Affairs Agencies Consolidation Act of 1997, to the extent the Board considers necessary in carrying out the provisions and purposes of this title.

"(18) To utilize the authorities of any other statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding that had been available to the Director of the United States Information Agency, the Bureau, or the Board before the effective date of title XIII of the Foreign Affairs Consolidation Act of 1997 for carrying out the broadcasting activities covered by this title."

(f) DELEGATION OF AUTHORITY.—Section 305 (22 U.S.C. 6204) is amended—

(1) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively; and

(2) by inserting after subsection (a) the following new subsection:

"(b) DELEGATION OF AUTHORITY.—The Board may delegate to the Director of the International Broadcasting Bureau, or any other officer or employee of the United States, to the extent the Board determines to be appropriate, the authorities provided in this section, except those authorities provided in paragraph (1), (2), (3), (4), (5), (6), (9), or (11) of subsection (a)."

(g) BROADCASTING BUDGETS.—Section 305(c)(1) (as redesignated) is amended—

(1) by striking "(1)" before "The Director"; and

(2) by striking "the Director of the United States Information Agency for the consideration of the Director as a part of the Agency's budget submission to";

(h) REPEAL.—Section 305(c)(2) (as redesignated) is repealed.

(i) IMPLEMENTATION.—Section 305(d) (as redesignated) is amended to read as follows:

"(d) PROFESSIONAL INDEPENDENCE OF BROADCASTERS.—The Secretary of State and the Board, in carrying out their functions, shall respect the professional independence and integrity of the International Broadcasting Bureau, its broadcasting services, and the grantees of the Board."

(j) FOREIGN POLICY GUIDANCE.—Section 306 (22 U.S.C. 6205) is amended—

(1) in the section heading, by striking "FOREIGN POLICY GUIDANCE" and inserting "ROLE OF THE SECRETARY OF STATE";

(2) by inserting "(a) FOREIGN POLICY GUIDANCE.—" immediately before "To";

(3) by striking "State, acting through the Director of the United States Information Agency," and inserting "State";

(4) by inserting before the period at the end the following: ", as the Secretary may deem appropriate"; and

(5) by adding at the end the following:

"(b) CERTAIN WORLNET PROGRAMMING.—The Secretary of State is authorized to use Worldnet broadcasts for the purposes of continuing interactive dialogues with foreign media and other similar overseas public diplomacy programs sponsored by the Department of State. The Chairman of the Broadcasting Board of Governors shall provide access to Worldnet for this purpose on a nonreimbursable basis."

(k) INTERNATIONAL BROADCASTING BUREAU.—Section 307 (22 U.S.C. 6206) is amended—

(1) in subsection (a), by striking "within the United States Information Agency" and inserting "under the Board";

(2) in subsection (b)(1), by striking "Chairman of the Board, in consultation with the Director of the United States Information Agency and with the concurrence of a majority of the Board" and inserting "President, by and with the advice and consent of the Senate";

(3) by redesignating subsection (b)(1) as subsection (b);

(4) by striking subsection (b)(2); and

(5) by adding at the end the following new subsection:

"(c) RESPONSIBILITIES OF THE DIRECTOR.—The Director shall organize and chair a coordinating committee to examine and make recommendations to the Board on long-term strategies for the future of international broadcasting, including the use of new technologies, further consolidation of broadcast services, and consolidation of currently existing public affairs and legislative relations functions in the various international broadcasting entities. The coordinating committee shall include representatives of Radio Free Asia, RFE/RL, Incorporated, the Broadcasting Board of Governors, and, as appropriate, the Office of Cuba Broadcasting, the Voice of America, and Worldnet."

(l) REPEALS.—The following provisions of law are repealed:

(1) Subsections (k) and (l) of section 308 (22 U.S.C. 6207 (k), (l)).

(2) Section 310 (22 U.S.C. 6209).

**SEC. 1324. AMENDMENTS TO THE RADIO BROADCASTING TO CUBA ACT.**

The Radio Broadcasting to Cuba Act (22 U.S.C. 1465 et seq.) is amended—

(1) by striking "United States Information Agency" each place it appears and inserting "Broadcasting Board of Governors";

(2) by striking "Agency" each place it appears and inserting "Board";

(3) by striking "the Director of the United States Information Agency" each place it ap-

pears and inserting "the Broadcasting Board of Governors";

(4) in section 4 (22 U.S.C. 1465b), by striking "the Voice of America" and inserting "the International Broadcasting Bureau";

(5) in section 5 (22 U.S.C. 1465c)—

(A) by striking "Board" each place it appears and inserting "Advisory Board"; and

(B) in subsection (a), by striking the first sentence and inserting "There is established within the Office of the President the Advisory Board for Cuba Broadcasting (in this Act referred to as the 'Advisory Board')."; and

(6) by striking any other reference to "Director" not amended by paragraph (3) each place it appears and inserting "Board".

**SEC. 1325. AMENDMENTS TO THE TELEVISION BROADCASTING TO CUBA ACT.**

The Television Broadcasting to Cuba Act (22 U.S.C. 1465aa et seq.) is amended—

(1) in section 243(a) (22 U.S.C. 1465bb(a)) and section 246 (22 U.S.C. 1465dd), by striking "United States Information Agency" each place it appears and inserting "Broadcasting Board of Governors";

(2) in section 243(c) (22 U.S.C. 1465bb(c))—  
 (A) in the subsection heading, by striking "USIA"; and

(B) by striking "USIA Television" and inserting "the Television";

(3) in section 244(c) (22 U.S.C. 1465cc(c)) and section 246 (22 U.S.C. 1465dd), by striking "Agency" each place it appears and inserting "Board";

(4) in section 244 (22 U.S.C. 1465cc)—

(A) in the section heading, by striking "OF THE UNITED STATES INFORMATION AGENCY";

(B) in subsection (a)—

(i) in the first sentence, by striking "The Director of the United States Information Agency shall establish" and inserting "There is"; and

(ii) in the second sentence—

(I) by striking "Director of the United States Information Agency" and inserting "Broadcasting Board of Governors"; and

(II) by striking "the Director of the Voice of America" and inserting "the International Broadcasting Bureau";

(C) in subsection (b)—

(i) by striking "Agency facilities" and inserting "Board facilities"; and

(ii) by striking "Information Agency" and inserting "International"; and

(D) in the heading of subsection (c), by striking "USIA"; and

(5) in section 245(d) (22 U.S.C. 1465c note), by striking "Board" and inserting "Advisory Board".

**SEC. 1326. TRANSFER OF BROADCASTING RELATED FUNDS, PROPERTY, AND PERSONNEL.**

(a) TRANSFER AND ALLOCATION OF PROPERTY AND APPROPRIATIONS.—

(1) IN GENERAL.—The assets, liabilities (including contingent liabilities arising from suits continued with a substitution or addition of parties under section 1327(d)), contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available in connection with the functions and offices of USIA transferred to the Broadcasting Board of Governors by this chapter shall be transferred to the Broadcasting Board of Governors for appropriate allocation.

(2) ADDITIONAL TRANSFERS.—In addition to the transfers made under paragraph (1), there shall be transferred to the Chairman of the Broadcasting Board of Governors the assets, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds, as determined by the

Secretary, in concurrence with the Broadcasting Board of Governors, to support the functions transferred by this chapter.

(b) **TRANSFER OF PERSONNEL.**—Notwithstanding any other provision of law—

(1) except as provided in subsection (c), all personnel and positions of USIA employed or maintained to carry out the functions transferred by this chapter to the Broadcasting Board of Governors shall be transferred to the Broadcasting Board of Governors at the same grade or class and the same rate of basic pay or basic salary rate and with the same tenure held immediately preceding transfer; and

(2) the personnel and positions of USIA, as determined by the Secretary of State, with the concurrence of the Broadcasting Board of Governors and the Director of USIA, to support the functions transferred by this chapter shall be transferred to the Broadcasting Board of Governors, including the International Broadcasting Bureau, at the same grade or class and the same rate of basic pay or basic salary rate and with the same tenure held immediately preceding transfer.

(c) **TRANSFER AND ALLOCATION OF PROPERTY, APPROPRIATIONS, AND PERSONNEL ASSOCIATED WITH WORLDNET.**—USIA personnel responsible for carrying out interactive dialogs with foreign media and other similar overseas public diplomacy programs using the Worldnet television broadcasting system, and funds associated with such personnel, shall be transferred to the Department of State in accordance with the provisions of title XVI of this subdivision.

(d) **INCIDENTAL TRANSFERS.**—The Director of the Office of Management and Budget, when requested by the Broadcasting Board of Governors, is authorized to make such incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with functions and offices transferred from USIA, as may be necessary to carry out the provisions of this section.

**SEC. 1327. SAVINGS PROVISIONS.**

(a) **CONTINUING LEGAL FORCE AND EFFECT.**—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registrations, privileges, and other administrative actions—

(1) that have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official thereof, or by a court of competent jurisdiction, in the performance of functions exercised by the Broadcasting Board of Governors of the United States Information Agency on the day before the effective date of this title, and

(2) that are in effect at the time this title takes effect, or were final before the effective date of this title and are to become effective on or after the effective date of this title,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Broadcasting Board of Governors, or other authorized official, a court of competent jurisdiction, or by operation of law.

(b) **PENDING PROCEEDINGS.**—

(1) **IN GENERAL.**—The provisions of this chapter, or amendments made by this chapter, shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending before the Broadcasting Board of Governors of the United States Information Agency at the time this title takes effect, with respect to functions exercised by the Board as of the effective date of this title but such proceedings and applications shall be continued.

(2) **ORDERS, APPEALS, AND PAYMENTS.**—Orders shall be issued in such proceedings, appeals

shall be taken therefrom, and payments shall be made pursuant to such orders, as if this chapter had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law.

(3) **STATUTORY CONSTRUCTION.**—Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this chapter had not been enacted.

(c) **NONABATEMENT OF PROCEEDINGS.**—No suit, action, or other proceeding commenced by or against any officer in the official capacity of such individual as an officer of the Broadcasting Board of Governors, or any commission or component thereof, shall abate by reason of the enactment of this chapter. No cause of action by or against the Broadcasting Board of Governors, or any commission or component thereof, or by or against any officer thereof in the official capacity of such officer, shall abate by reason of the enactment of this chapter.

(d) **CONTINUATION OF PROCEEDINGS WITH SUBSTITUTION OF PARTIES.**—

(1) **SUBSTITUTION OF PARTIES.**—If, before the effective date of this title, USIA or the Broadcasting Board of Governors, or any officer thereof in the official capacity of such officer, is a party to a suit which is related to the functions transferred by this chapter, then effective on such date such suit shall be continued with the Broadcasting Board of Governors or other appropriate official of the Board substituted or added as a party.

(2) **LIABILITY OF THE BOARD.**—The Board shall participate in suits continued under paragraph (1) where the Broadcasting Board of Governors or other appropriate official of the Board is added as a party and shall be liable for any judgments or remedies in those suits or proceedings arising from the exercise of the functions transferred by this chapter to the same extent that USIA would have been liable if such judgment or remedy had been rendered on the day before the abolition of USIA.

(e) **ADMINISTRATIVE ACTIONS RELATING TO PROMULGATION OF REGULATIONS.**—Any administrative action relating to the preparation or promulgation of a regulation by the Broadcasting Board of Governors relating to a function exercised by the Board before the effective date of this title may be continued by the Board with the same effect as if this chapter had not been enacted.

(f) **REFERENCES.**—Reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or relating to the Broadcasting Board of Governors of the United States Information Agency with regard to functions exercised before the effective date of this title, shall be deemed to refer to the Board.

**SEC. 1328. REPORT ON THE PRIVATIZATION OF RFE/RL, INCORPORATED.**

Not later than March 1 of each year, the Broadcasting Board of Governors shall submit to the appropriate congressional committees a report on the progress of the Board and of RFE/RL, Incorporated, on any steps taken to further the policy declared in section 312(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995. The report under this subsection shall include the following:

(1) Efforts by RFE/RL, Incorporated, to terminate individual language services.

(2) A detailed description of steps taken with regard to section 312(a) of that Act.

(3) An analysis of prospects for privatization over the coming year.

(4) An assessment of the extent to which United States Government funding may be ap-

propriate in the year 2000 and subsequent years for surrogate broadcasting to the countries to which RFE/RL, Incorporated, broadcast during the year. This assessment shall include an analysis of the environment for independent media in those countries, noting the extent of government control of the media, the ability of independent journalists and news organizations to operate, relevant domestic legislation, level of government harassment and efforts to censor, and other indications of whether the people of such countries enjoy freedom of expression.

**CHAPTER 4—CONFORMING AMENDMENTS**

**SEC. 1331. REFERENCES.**

(a) **IN GENERAL.**—Except as otherwise provided in this subdivision, any reference in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding to—

(1) the Director of the United States Information Agency or the Director of the International Communication Agency shall be deemed to refer to the Secretary of State; and

(2) the United States Information Agency, USIA, or the International Communication Agency shall be deemed to refer to the Department of State.

(b) **CONTINUING REFERENCES TO USIA OR DIRECTOR.**—Subsection (a) shall not apply to section 146 (a), (b), or (c) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (22 U.S.C. 4069a(f), 4069b(g), or 4069c(f)).

**SEC. 1332. AMENDMENTS TO TITLE 5, UNITED STATES CODE.**

Title 5, United States Code, is amended—

(1) in section 5313, by striking "Director of the United States Information Agency.;"

(2) in section 5315—

(A) by striking "Deputy Director of the United States Information Agency.;" and

(B) by striking "Director of the International Broadcasting Bureau, the United States Information Agency." and inserting "Director of the International Broadcasting Bureau.;" and

(3) in section 5316—

(A) by striking "Deputy Director, Policy and Plans, United States Information Agency.;" and

(B) by striking "Associate Director (Policy and Plans), United States Information Agency.;"

**SEC. 1333. APPLICATION OF CERTAIN LAWS.**

(a) **APPLICATION TO FUNCTIONS OF DEPARTMENT OF STATE.**—Section 501 of Public Law 80-402 (22 U.S.C. 1461), section 202 of Public Law 95-426 (22 U.S.C. 1461-1), and section 208 of Public Law 99-93 (22 U.S.C. 1461-1a) shall not apply to public affairs and other information dissemination functions of the Secretary of State as carried out prior to any transfer of functions pursuant to this subdivision.

(b) **APPLICATION TO FUNCTIONS TRANSFERRED TO DEPARTMENT OF STATE.**—Section 501 of Public Law 80-402 (22 U.S.C. 1461), section 202 of Public Law 95-426 (22 U.S.C. 1461-1), and section 208 of Public Law 99-93 (22 U.S.C. 1461-1a) shall apply only to public diplomacy programs, personnel and support of the Director of the United States Information Agency as carried out prior to any transfer of functions pursuant to this subdivision to the same extent that such programs were covered by these provisions prior to such transfer.

(c) **LIMITATION ON USE OF FUNDS.**—Except as provided in section 501 of Public Law 80-402 and section 208 of Public Law 99-93, funds specifically authorized to be appropriated for such public diplomacy programs shall not be used to influence public opinion in the United States, and no program material prepared using such funds shall be distributed or disseminated in the United States.

(d) **REPORTING REQUIREMENTS.**—The report submitted pursuant to section 1601(f) of this subdivision shall include a detailed statement of the

manner in which the special mission of public diplomacy carried out by USIA prior to the transfer of functions under this subdivision shall be preserved within the Department of State, including the planned duties and responsibilities of any new bureaus that will perform such public diplomacy functions. Such report shall also include the best available estimates of—

(1) the amounts to be expended by the Department of State for public affairs programs during fiscal year 1998, and on the personnel and support costs for such programs;

(2) the amounts to be expended by USIA for its public diplomacy programs during fiscal year 1998, and on the personnel and support costs for such programs; and

(3) the amounts, including funds to be transferred from USIA and funds appropriated to the Department, that will be allocated for the programs described in paragraphs (1) and (2), respectively, during the fiscal year in which the transfer of functions from USIA to the Department occurs.

(e) CONGRESSIONAL PRESENTATION DOCUMENT.—The Department of State's Congressional Presentation Document for fiscal year 2000 and each fiscal year thereafter shall include—

(1) the aggregated amounts that the Department will spend on such public diplomacy programs and on costs of personnel for such programs, and a detailed description of the goals and purposes for which such funds shall be expended; and

(2) the amount of funds allocated to and the positions authorized for such public diplomacy programs, including bureaus to be created upon the transfer of functions from USIA to the Department.

#### SEC. 1334. ABOLITION OF UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY.

(a) ABOLITION.—The United States Advisory Commission on Public Diplomacy is abolished.

(b) REPEALS.—Section 604 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1469) and section 8 of Reorganization Plan Numbered 2 of 1977 are repealed.

#### SEC. 1335. CONFORMING AMENDMENTS.

(a) The United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1431 et seq.) is amended—

(1) in section 505 (22 U.S.C. 1464a)—

(A) by striking "Director of the United States Information Agency" each place it appears and inserting "Broadcasting Board of Governors";

(B) by striking "United States Information Agency" each place it appears and inserting "Broadcasting Board of Governors";

(C) in subsection (b)—

(i) by striking "Agency's" and all that follows through "USIA-TV" and inserting "television broadcasts of the United States International Television Service"; and

(ii) in paragraphs (1), (2), and (3), by striking "USIA-TV" each place it appears and inserting "The United States International Television Service"; and

(D) in subsections (d) and (e), by striking "USIA-TV" each place it appears and inserting "the United States International Television Service";

(2) in section 506(c) (22 U.S.C. 1464b(c))—

(A) by striking "Director of the United States Information Agency" and inserting "Broadcasting Board of Governors";

(B) by striking "Agency" and inserting "Board"; and

(C) by striking "Director" and inserting "Board".

(3) in section 705 (22 U.S.C. 1477c)—

(A) by striking subsections (a) and (c); and

(B) in subsection (b)—

(i) by striking "(b) In addition, the United State Information Agency" and inserting "The Department of State"; and

(ii) by striking "program grants" and inserting "grants for overseas public diplomacy programs";

(4) in section 801(7) (22 U.S.C. 1471(7))—

(A) by striking "Agency" and inserting "overseas public diplomacy"; and

(B) by inserting "other" after "together with"; and

(5) in section 812 (22 U.S.C. 1475g)—

(A) by striking "United States Information Agency post" each place it appears and inserting "overseas public diplomacy post";

(B) in subsection (a), by striking "United States Information Agency" the first place it appears and inserting "Department of State";

(C) in subsection (b), by striking "Director of the United States Information Agency" and inserting "Secretary of State"; and

(D) in the section heading, by striking "USIA" and inserting "OVERSEAS PUBLIC DIPLOMACY".

(b) Section 212 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (22 U.S.C. 1475h) is amended—

(1) by striking "United States Information Agency" each place it appears and inserting "Department of State";

(2) in subsection (a), by inserting "for carrying out its overseas public diplomacy functions" after "grants";

(3) in subsection (b)—

(A) by striking "a grant" the first time it appears and inserting "an overseas public diplomacy grant"; and

(B) in paragraph (1), by inserting "such" before "a grant" the first place it appears;

(4) in subsection (c)(1), by inserting "overseas public diplomacy" before "grants";

(5) in subsection (c)(3), by inserting "such" before "grant"; and

(6) by striking subsection (d).

(c) Section 602 of the National and Community Service Act of 1990 (22 U.S.C. 2452a) is amended—

(1) in the second sentence of subsection (a), by striking "United States Information Agency" and inserting "Department of State"; and

(2) in subsection (b)—

(A) by striking "appropriations account of the United States Information Agency" and inserting "appropriate appropriations account of the Department of State"; and

(B) by striking "and the United States Information Agency".

(d) Section 305 of Public Law 97-446 (19 U.S.C. 2604) is amended in the first sentence, by striking ", after consultation with the Director of the United States Information Agency,".

(e) Section 601 of Public Law 103-227 (20 U.S.C. 5951(a)) is amended by striking "of the Director of the United States Information Agency and with" and inserting "and".

(f) Section 1003(b) of the Fassel Fellowship Act (22 U.S.C. 4902(b)) is amended—

(1) in the text above paragraph (1), by striking "9 members" and inserting "7 members";

(2) in paragraph (4), by striking "Six" and inserting "Five";

(3) by striking paragraph (3); and

(4) by redesignating paragraph (4) as paragraph (3).

(g) Section 803 of the Intelligence Authorization Act, Fiscal Year 1992 (50 U.S.C. 1903) is amended—

(1) in subsection (b)—

(A) by striking paragraph (6); and

(B) by redesignating paragraphs (7) and (8) as paragraphs (6) and (7), respectively; and

(2) in subsection (c), by striking "subsection (b)(7)" and inserting "subsection (b)(6)".

(h) Section 7 of the Federal Triangle Development Act (40 U.S.C. 1106) is amended—

(1) in subsection (c)(1)—

(A) in the text above subparagraph (A), by striking "15 members" and inserting "14 members";

(B) by striking subparagraph (F); and

(C) by redesignating subparagraphs (G) through (J) as subparagraphs (F) through (I), respectively;

(2) in paragraphs (3) and (5) of subsection (c), by striking "paragraph (1)(J)" each place it appears and inserting "paragraph (1)(I)"; and

(3) in subsection (d)(3) and subsection (e), by striking "the Administrator and the Director of the United States Information Agency" each place it appears and inserting "and the Administrator".

(i) Section 3 of the Woodrow Wilson Memorial Act of 1968 (Public Law 90-637; 20 U.S.C. 80f) is amended—

(1) in subsection (b)—

(A) in the text preceding paragraph (1), by striking "19 members" and inserting "17 members";

(B) by striking paragraph (7);

(C) by striking "10" in paragraph (10) and inserting "9"; and

(D) by redesignating paragraphs (8) through (10) as paragraphs (7) through (9), respectively; and

(2) in subsection (c), by striking "(9)" and inserting "(8)".

(j) Section 624 of Public Law 89-329 (20 U.S.C. 1131c) is amended by striking "the United States Information Agency,".

(k) The Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.) is amended—

(1) in section 202(a)(1) (22 U.S.C. 3922(a)(1)), by striking "Director of the United States Information Agency" and inserting "Broadcasting Board of Governors";

(2) in section 210 (22 U.S.C. 3930), by striking "United States Information Agency" and inserting "Broadcasting Board of Governors";

(3) in section 1003(a) (22 U.S.C. 4103(a)), by striking "United States Information Agency" and inserting "Broadcasting Board of Governors"; and

(4) in section 1101(c) (22 U.S.C. 4131(c)), by striking "the United States Information Agency," and inserting "Broadcasting Board of Governors,".

(l) The Department of State Basic Authorities Act of 1956, as amended by this division, is further amended—

(1) in section 23(a) (22 U.S.C. 2695(a)), by striking "United States Information Agency" and inserting "Broadcasting Board of Governors";

(2) in section 25(f) (22 U.S.C. 2697(f))—

(A) by striking "Director of the United States Information Agency" and inserting "Broadcasting Board of Governors"; and

(B) by striking "with respect to their respective agencies" and inserting "with respect to the Board and the Agency";

(3) in section 26(b) (22 U.S.C. 2698(b)), as amended by this division—

(A) by striking "Director of the United States Information Agency, the chairman of the Board for International Broadcasting," and inserting "Broadcasting Board of Governors"; and

(B) by striking "with respect to their respective agencies" and inserting "with respect to the Board and the Agency"; and

(4) in section 32 (22 U.S.C. 2704), as amended by this division, by striking "the Director of the United States Information Agency" and inserting "the Broadcasting Board of Governors".

(m) Section 507(b)(3) of Public Law 103-317 (22 U.S.C. 2669a(b)(3)) is amended by striking ", the United States Information Agency,".

(n) Section 502 of Public Law 92-352 (2 U.S.C. 194a) is amended by striking "the United States Information Agency,".

(o) Section 6 of Public Law 104-288 (22 U.S.C. 2141d) is amended—

(1) in subsection (a), by striking "Director of the United States Information Agency,"; and

(2) in subsection (b), by striking "the Director of the United States Information Agency" and inserting "the Under Secretary of State for Public Diplomacy".

(p) Section 40118(d) of title 49, United States Code, is amended by striking "the Director of the United States Information Agency,".

(q) Section 155 of Public Law 102-138 is amended—

(1) by striking the comma before "Department of Commerce" and inserting "and"; and

(2) by striking "and the United States Information Agency".

(r) Section 107 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (22 U.S.C. 6037) is amended by striking "Director of the United States Information Agency" each place it appears and inserting "Director of the International Broadcasting Bureau".

#### SEC. 1336. REPEALS.

The following provisions are repealed:

(1) Sections 701 (22 U.S.C. 1476), 704 (22 U.S.C. 1477b), 807 (22 U.S.C. 1475b), 808 (22 U.S.C. 1475c), 811 (22 U.S.C. 1475f), and 1009 (22 U.S.C. 1440) of the United States Information and Educational Exchange Act of 1948.

(2) Section 106(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2456(c)).

(3) Section 565(e) of the Anti-Economic Discrimination Act of 1994 (22 U.S.C. 2679c(e)).

(4) Section 206(b) of Public Law 102-138.

(5) Section 2241 of Public Law 104-66.

(6) Sections 1 through 6 of Reorganization Plan Numbered 2 of 1977 (91 Stat. 636).

(7) Section 207 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 22 U.S.C. 1463 note).

### TITLE XIV—UNITED STATES INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

#### CHAPTER 1—GENERAL PROVISIONS

##### SEC. 1401. EFFECTIVE DATE.

This title, and the amendments made by this title, shall take effect on the earlier of—

(1) October 1, 1998; or

(2) the date of abolition of the United States International Development Cooperation Agency pursuant to the reorganization plan described in section 1601.

#### CHAPTER 2—ABOLITION AND TRANSFER OF FUNCTIONS

##### SEC. 1411. ABOLITION OF UNITED STATES INTERNATIONAL DEVELOPMENT COOPERATION AGENCY.

(a) IN GENERAL.—Except for the components specified in subsection (b), the United States International Development Cooperation Agency (including the Institute for Scientific and Technological Cooperation) is abolished.

(b) AID AND OPIC EXEMPTED.—Subsection (a) does not apply to the Agency for International Development or the Overseas Private Investment Corporation.

##### SEC. 1412. TRANSFER OF FUNCTIONS AND AUTHORITIES.

(a) ALLOCATION OF FUNDS.—

(1) ALLOCATION TO THE SECRETARY OF STATE.—Funds made available under the categories of assistance deemed allocated to the Director of the International Development Cooperation Agency under section 1-801 of Executive Order No. 12163 (22 U.S.C. 2381 note) as of October 1, 1997, shall be allocated to the Secretary of State on and after the effective date of this title without further action by the President.

(2) PROCEDURES FOR REALLOCATIONS OR TRANSFERS.—The Secretary of State may allo-

cate or transfer as appropriate any funds received under paragraph (1) in the same manner as previously provided for the Director of the International Development Cooperation Agency under section 1-802 of that Executive Order, as in effect on October 1, 1997.

(b) WITH RESPECT TO THE OVERSEAS PRIVATE INVESTMENT CORPORATION.—There are transferred to the Administrator of the Agency for International Development all functions of the Director of the United States International Development Cooperation Agency as of the day before the effective date of this title with respect to the Overseas Private Investment Corporation.

(c) OTHER ACTIVITIES.—The authorities and functions transferred to the United States International Development Cooperation Agency or the Director of that Agency by section 6 of Reorganization Plan Numbered 2 of 1979 shall, to the extent such authorities and functions have not been repealed, be transferred to those agencies or heads of agencies, as the case may be, in which those authorities and functions were vested by statute as of the day before the effective date of such reorganization plan.

##### SEC. 1413. STATUS OF AID.

(a) IN GENERAL.—Unless abolished pursuant to the reorganization plan submitted under section 1601, and except as provided in section 1412, there is within the Executive branch of Government the United States Agency for International Development as an entity described in section 104 of title 5, United States Code.

(b) RETENTION OF OFFICERS.—Nothing in this section shall require the reappointment of any officer of the United States serving in the Agency for International Development of the United States International Development Cooperation Agency as of the day before the effective date of this title.

#### CHAPTER 3—CONFORMING AMENDMENTS

##### SEC. 1421. REFERENCES.

Except as otherwise provided in this subdivision, any reference in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding to the United States International Development Cooperation Agency (IDCA) or to the Director or any other officer or employee of IDCA—

(1) insofar as such reference relates to any function or authority transferred under section 1412(a), shall be deemed to refer to the Secretary of State;

(2) insofar as such reference relates to any function or authority transferred under section 1412(b), shall be deemed to refer to the Administrator of the Agency for International Development;

(3) insofar as such reference relates to any function or authority transferred under section 1412(c), shall be deemed to refer to the head of the agency to which such function or authority is transferred under such section; and

(4) insofar as such reference relates to any function or authority not transferred by this title, shall be deemed to refer to the President or such agency or agencies as may be specified by Executive order.

##### SEC. 1422. CONFORMING AMENDMENTS.

(a) TERMINATION OF REORGANIZATION PLANS AND DELEGATIONS.—The following shall cease to be effective:

(1) Reorganization Plan Numbered 2 of 1979 (5 U.S.C. App.).

(2) Section 1-101 through 1-103, sections 1-401 through 1-403, section 1-801(a), and such other provisions that relate to the United States International Development Cooperation Agency or the Director of IDCA, of Executive Order No. 12163 (22 U.S.C. 2381 note; relating to administration of foreign assistance and related functions).

(3) The International Development Cooperation Agency Delegation of Authority Numbered 1 (44 Fed. Reg. 57521), except for section 1-6 of such Delegation of Authority.

(4) Section 3 of Executive Order No. 12884 (58 Fed. Reg. 64099; relating to the delegation of functions under the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992, the Foreign Assistance Act of 1961, the Foreign Operations, Export Financing and Related Programs Appropriations Act, 1993, and section 301 of title 3, United States Code).

(b) OTHER STATUTORY AMENDMENTS AND REPEAL.—

(1) TITLE 5.—Section 7103(a)(2)(B)(iv) of title 5, United States Code, is amended by striking "United States International Development Cooperation Agency" and inserting "Agency for International Development".

(2) INSPECTOR GENERAL ACT OF 1978.—Section 8A of the Inspector General Act of 1978 (5 U.S.C. App. 3) is amended—

(A) in subsection (a)—

(i) by striking "Development" through "(1) shall" and inserting "Development shall";

(ii) by striking "and" at the end of subsection (a)(1) and inserting a period; and

(iii) by striking paragraph (2);

(B) by striking subsections (c) and (f); and

(C) by redesignating subsections (d), (e), (g), and (h) as subsections (c), (d), (e), and (f), respectively.

(3) STATE DEPARTMENT BASIC AUTHORITIES ACT OF 1956.—The State Department Basic Authorities Act of 1956 is amended—

(A) in section 25(f) (22 U.S.C. 2697(f)), as amended by this division, by striking "Director of the United States International Development Cooperation Agency" and inserting "Administrator of the Agency for International Development";

(B) in section 26(b) (22 U.S.C. 2698(b)), as amended by this division, by striking "Director of the United States International Development Cooperation Agency" and inserting "Administrator of the Agency for International Development"; and

(C) in section 32 (22 U.S.C. 2704), by striking "Director of the United States International Development Cooperation Agency" and inserting "Administrator of the Agency for International Development".

(4) FOREIGN SERVICE ACT OF 1980.—The Foreign Service Act of 1980 is amended—

(A) in section 202(a)(1) (22 U.S.C. 3922(a)(1)), by striking "Director of the United States International Development Cooperation Agency" and inserting "Administrator of the Agency for International Development";

(B) in section 210 (22 U.S.C. 3930), by striking "United States International Development Cooperation Agency" and inserting "Agency for International Development";

(C) in section 1003(a) (22 U.S.C. 4103(a)), by striking "United States International Development Cooperation Agency" and inserting "Agency for International Development"; and

(D) in section 1101(c) (22 U.S.C. 4131(c)), by striking "United States International Development Cooperation Agency" and inserting "Agency for International Development".

(5) REPEAL.—Section 413 of Public Law 96-53 (22 U.S.C. 3512) is repealed.

(6) TITLE 49.—Section 40118(d) of title 49, United States Code, is amended by striking "the Director of the United States International Development Cooperation Agency" and inserting "or the Administrator of the Agency for International Development".

(7) EXPORT ADMINISTRATION ACT OF 1979.—Section 2405(g) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(g)) is amended—

(A) by striking "Director of the United States International Development Cooperation Agency" each place it appears and inserting "Administrator of the Agency for International Development"; and

(B) in the fourth sentence, by striking "Director" and inserting "Administrator".

## TITLE XV—AGENCY FOR INTERNATIONAL DEVELOPMENT

### CHAPTER 1—GENERAL PROVISIONS

#### SEC. 1501. EFFECTIVE DATE.

This title, and the amendments made by this title, shall take effect on the earlier of—

(1) October 1, 1998; or

(2) the date of reorganization of the Agency for International Development pursuant to the reorganization plan described in section 1601.

### CHAPTER 2—REORGANIZATION AND TRANSFER OF FUNCTIONS

#### SEC. 1511. REORGANIZATION OF AGENCY FOR INTERNATIONAL DEVELOPMENT.

(a) IN GENERAL.—The Agency for International Development shall be reorganized in accordance with this subdivision and the reorganization plan transmitted pursuant to section 1601.

(b) FUNCTIONS TO BE TRANSFERRED.—The reorganization of the Agency for International Development shall provide, at a minimum, for the transfer to and consolidation with the Department of State of the following functions of AID:

(1) The Press office.

(2) Certain administrative functions.

### CHAPTER 3—AUTHORITIES OF THE SECRETARY OF STATE

#### SEC. 1521. DEFINITION OF UNITED STATES ASSISTANCE.

In this chapter, the term "United States assistance" means development and other economic assistance, including assistance made available under the following provisions of law:

(1) Chapter 1 of part I of the Foreign Assistance Act of 1961 (relating to development assistance).

(2) Chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund).

(3) Chapter 10 of part I of the Foreign Assistance Act of 1961 (relating to the Development Fund for Africa).

(4) Chapter 11 of part I of the Foreign Assistance Act of 1961 (relating to assistance for the independent states of the former Soviet Union).

(5) The Support for East European Democracy Act (22 U.S.C. 5401 et seq.).

#### SEC. 1522. ADMINISTRATOR OF AID REPORTING TO THE SECRETARY OF STATE.

The Administrator of the Agency for International Development, appointed pursuant to section 624(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2384(a)), shall report to and be under the direct authority and foreign policy guidance of the Secretary of State.

#### SEC. 1523. ASSISTANCE PROGRAMS COORDINATION AND OVERSIGHT.

(a) AUTHORITY OF THE SECRETARY OF STATE.—

(1) IN GENERAL.—Under the direction of the President, the Secretary of State shall coordinate all United States assistance in accordance with this section, except as provided in paragraphs (2) and (3).

(2) EXPORT PROMOTION ACTIVITIES.—Coordination of activities relating to promotion of exports of United States goods and services shall continue to be primarily the responsibility of the Secretary of Commerce.

(3) INTERNATIONAL ECONOMIC ACTIVITIES.—Coordination of activities relating to United States participation in international financial institutions and relating to organization of multilat-

eral efforts aimed at currency stabilization, currency convertibility, debt reduction, and comprehensive economic reform programs shall continue to be primarily the responsibility of the Secretary of the Treasury.

(4) AUTHORITIES AND POWERS OF THE SECRETARY OF STATE.—The powers and authorities of the Secretary provided in this chapter are in addition to the powers and authorities provided to the Secretary under any other Act, including section 101(b) and section 622(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151(b), 2382(c)).

(b) COORDINATION ACTIVITIES.—Coordination activities of the Secretary of State under subsection (a) shall include—

(1) approving an overall assistance and economic cooperation strategy;

(2) ensuring program and policy coordination among agencies of the United States Government in carrying out the policies set forth in the Foreign Assistance Act of 1961, the Arms Export Control Act, and other relevant assistance Acts;

(3) pursuing coordination with other countries and international organizations; and

(4) resolving policy, program, and funding disputes among United States Government agencies.

(c) STATUTORY CONSTRUCTION.—Nothing in this section may be construed to lessen the accountability of any Federal agency administering any program, project, or activity of United States assistance for any funds made available to the Federal agency for that purpose.

(d) AUTHORITY TO PROVIDE PERSONNEL OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT.—The Administrator of the Agency for International Development is authorized to detail to the Department of State on a non-reimbursable basis such personnel employed by the Agency as the Secretary of State may require to carry out this section.

## TITLE XVI—TRANSITION

### CHAPTER 1—REORGANIZATION PLAN

#### SEC. 1601. REORGANIZATION PLAN AND REPORT.

(a) SUBMISSION OF PLAN AND REPORT.—Not later than 60 days after the date of the enactment of this Act, the President shall transmit to the appropriate congressional committees a reorganization plan and report regarding—

(1) the abolition of the United States Arms Control and Disarmament Agency, the United States Information Agency, and the United States International Development Cooperation Agency in accordance with this subdivision;

(2) with respect to the Agency for International Development, the consolidation and streamlining of the Agency and the transfer of certain functions of the Agency to the Department in accordance with section 1511;

(3) the termination of functions of each covered agency as may be necessary to effectuate the reorganization under this subdivision, and the termination of the affairs of each agency abolished under this subdivision;

(4) the transfer to the Department of the functions and personnel of each covered agency consistent with the provisions of this subdivision; and

(5) the consolidation, reorganization, and streamlining of the Department in connection with the transfer of such functions and personnel in order to carry out such functions.

(b) COVERED AGENCIES.—The agencies covered by this section are the following:

(1) The United States Arms Control and Disarmament Agency.

(2) The United States Information Agency.

(3) The United States International Development Cooperation Agency.

(4) The Agency for International Development.

(c) PLAN ELEMENTS.—The plan transmitted under subsection (a) shall contain, consistent

with this subdivision, such elements as the President deems appropriate, including elements that—

(1) identify the functions of each covered agency that will be transferred to the Department under the plan;

(2) specify the steps to be taken by the Secretary of State to reorganize internally the functions of the Department, including the consolidation of offices and functions, that will be required under the plan in order to permit the Department to carry out the functions transferred to it under the plan;

(3) specify the funds available to each covered agency that will be transferred to the Department as a result of the transfer of functions of such agency to the Department;

(4) specify the proposed allocations within the Department of unexpended funds transferred in connection with the transfer of functions under the plan; and

(5) specify the proposed disposition of the property, facilities, contracts, records, and other assets and liabilities of each covered agency in connection with the transfer of the functions of such agency to the Department.

(d) REORGANIZATION PLAN OF AGENCY FOR INTERNATIONAL DEVELOPMENT.—In addition to applicable provisions of subsection (c), the reorganization plan transmitted under this section for the Agency for International Development—

(1) may provide for the abolition of the Agency for International Development and the transfer of all its functions to the Department of State; or

(2) in lieu of the abolition and transfer of functions under paragraph (1)—

(A) shall provide for the transfer to and consolidation within the Department of the functions set forth in section 1511; and

(B) may provide for additional consolidation, reorganization, and streamlining of AID, including—

(i) the termination of functions and reductions in personnel of AID;

(ii) the transfer of functions of AID, and the personnel associated with such functions, to the Department; and

(iii) the consolidation, reorganization, and streamlining of the Department upon the transfer of such functions and personnel in order to carry out the functions transferred.

(e) MODIFICATION OF PLAN.—The President may, on the basis of consultations with the appropriate congressional committees, modify or revise any part of the plan transmitted under subsection (a) until that part of the plan becomes effective in accordance with subsection (g).

(f) REPORT.—The report accompanying the reorganization plan for the Department and the covered agencies submitted pursuant to this section shall describe the implementation of the plan and shall include—

(1) a detailed description of—

(A) the actions necessary or planned to complete the reorganization,

(B) the anticipated nature and substance of any orders, directives, and other administrative and operational actions which are expected to be required for completing or implementing the reorganization, and

(C) any preliminary actions which have been taken in the implementation process;

(2) the number of personnel and positions of each covered agency (including civil service personnel, Foreign Service personnel, and detailees) that are expected to be transferred to the Department, separated from service with such agency, or eliminated under the plan, and a projected schedule for such transfers, separations, and terminations;

(3) the number of personnel and positions of the Department (including civil service personnel, Foreign Service personnel, and

detail) that are expected to be transferred within the Department, separated from service with the Department, or eliminated under the plan, and a projected schedule for such transfers, separations, and terminations;

(4) a projected schedule for completion of the implementation process; and

(5) recommendations, if any, for legislation necessary to carry out changes made by this subdivision relating to personnel and to incidental transfers.

(g) **EFFECTIVE DATE.**—

(1) **IN GENERAL.**—The reorganization plan described in this section, including any modifications or revisions of the plan under subsection (e), shall become effective on the earlier of the date for the respective covered agency specified in paragraph (2) or the date announced by the President under paragraph (3).

(2) **STATUTORY EFFECTIVE DATES.**—The effective dates under this paragraph for the reorganization plan described in this section are the following:

(A) October 1, 1998, with respect to functions of the Agency for International Development described in section 1511.

(B) October 1, 1998, with respect to the abolition of the United States Arms Control and Disarmament Agency and the United States International Development Cooperation Agency.

(C) October 1, 1999, with respect to the abolition of the United States Information Agency.

(3) **EFFECTIVE DATE BY PRESIDENTIAL DETERMINATION.**—An effective date under this paragraph for a reorganization plan described in this section is such date as the President shall determine to be appropriate and announce by notice published in the Federal Register, which date may be not earlier than 90 calendar days after the President has transmitted the reorganization plan to the appropriate congressional committees pursuant to subsection (a).

(4) **STATUTORY CONSTRUCTION.**—Nothing in this subsection may be construed to require the transfer of functions, personnel, records, balance of appropriations, or other assets of a covered agency on a single date.

(5) **SUPERSEDES EXISTING LAW.**—Paragraph (1) shall apply notwithstanding section 905(b) of title 5, United States Code.

(h) **PUBLICATION.**—The reorganization plan described in this section shall be printed in the Federal Register after the date upon which it first becomes effective.

## CHAPTER 2—REORGANIZATION AUTHORITY

### SEC. 1611. REORGANIZATION AUTHORITY.

(a) **IN GENERAL.**—The Secretary is authorized, subject to the requirements of this subdivision, to allocate or reallocate any function transferred to the Department under any title of this subdivision, and to establish, consolidate, alter, or discontinue such organizational entities within the Department as may be necessary or appropriate to carry out any reorganization under this subdivision, but this subsection does not authorize the Secretary to modify the terms of any statute that establishes or defines the functions of any bureau, office, or officer of the Department.

(b) **REQUIREMENTS AND LIMITATIONS ON REORGANIZATION PLAN.**—The reorganization plan transmitted under section 1601 may not have the effect of—

(1) creating a new executive department;

(2) continuing a function beyond the period authorized by law for its exercise or beyond the time when it would have terminated if the reorganization had not been made;

(3) authorizing a Federal agency to exercise a function which is not authorized by law at the time the plan is transmitted to Congress;

(4) creating a new Federal agency which is not a component or part of an existing executive department or independent agency; or

(5) increasing the term of an office beyond that provided by law for the office.

### SEC. 1612. TRANSFER AND ALLOCATION OF APPROPRIATIONS.

(a) **IN GENERAL.**—Except as otherwise provided in this subdivision, the assets, liabilities (including contingent liabilities arising from suits continued with a substitution or addition of parties under section 1615(e)), contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available in connection with the functions and offices, or portions thereof, transferred by any title of this subdivision shall be transferred to the Secretary for appropriate allocation.

(b) **LIMITATION ON USE OF TRANSFERRED FUNDS.**—Except as provided in subsection (c), unexpended and unobligated funds transferred pursuant to any title of this subdivision shall be used only for the purposes for which the funds were originally authorized and appropriated.

(c) **FUNDS TO FACILITATE TRANSITION.**—

(1) **CONGRESSIONAL NOTIFICATION.**—Funds transferred pursuant to subsection (a) may be available for the purposes of reorganization subject to notification of the appropriate congressional committees in accordance with the procedures applicable to a reprogramming of funds under section 34 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2706).

(2) **TRANSFER AUTHORITY.**—Funds in any account appropriated to the Department of State may be transferred to another such account for the purposes of reorganization, subject to notification of the appropriate congressional committees in accordance with the procedures applicable to a reprogramming of funds under section 34 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2706). The authority in this paragraph is in addition to any other transfer authority available to the Secretary of State and shall expire September 30, 2000.

### SEC. 1613. TRANSFER, APPOINTMENT, AND ASSIGNMENT OF PERSONNEL.

(a) **TRANSFER OF PERSONNEL FROM ACDA AND USIA.**—Except as otherwise provided in title XIII—

(1) not later than the date of abolition of ACDA, all personnel and positions of ACDA, and

(2) not later than the date of abolition of USIA, all personnel and positions of USIA, shall be transferred to the Department of State at the same grade or class and the same rate of basic pay or basic salary rate and with the same tenure held immediately preceding transfer.

(b) **TRANSFER OF PERSONNEL FROM AID.**—Except as otherwise provided in title XIII, not later than the date of transfer of any function of AID to the Department of State under this subdivision, all AID personnel performing such functions and all positions associated with such functions shall be transferred to the Department of State at the same grade or class and the same rate of basic pay or basic salary rate and with the same tenure held immediately preceding transfer.

(c) **ASSIGNMENT AUTHORITY.**—The Secretary, for a period of not more than 6 months commencing on the effective date of the transfer to the Department of State of personnel under subsections (a) and (b), is authorized to assign such personnel to any position or set of duties in the Department of State regardless of the position held or duties performed by such personnel prior to transfer, except that, by virtue of such assignment, such personnel shall not have their grade or class or their rate of basic pay or basic salary rate reduced, nor their tenure changed. The Secretary shall consult with the relevant exclusive representatives (as defined in section 1002 of the Foreign Service Act and in section

7103 of title 5, United States Code) with regard to the exercise of this authority. This subsection does not authorize the Secretary to assign any individual to any position that by law requires appointment by the President, by and with the advice and consent of the Senate.

(d) **SUPERSEDING OTHER PROVISIONS OF LAW.**—Subsections (a) through (c) shall be exercised notwithstanding any other provision of law.

### SEC. 1614. INCIDENTAL TRANSFERS.

The Director of the Office of Management and Budget, when requested by the Secretary, is authorized to make such incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, as may be necessary to carry out the provisions of any title of this subdivision. The Director of the Office of Management and Budget, in consultation with the Secretary, shall provide for the termination of the affairs of all entities terminated by this subdivision and for such further measures and dispositions as may be necessary to effectuate the purposes of any title of this subdivision.

### SEC. 1615. SAVINGS PROVISIONS.

(a) **CONTINUING LEGAL FORCE AND EFFECT.**—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registrations, privileges, and other administrative actions—

(1) that have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official thereof, or by a court of competent jurisdiction, in the performance of functions that are transferred under any title of this subdivision; and

(2) that are in effect as of the effective date of such title, or were final before the effective date of such title and are to become effective on or after the effective date of such title,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Secretary, or other authorized official, a court of competent jurisdiction, or by operation of law.

(b) **PENDING PROCEEDINGS.**—

(1) **IN GENERAL.**—The provisions of any title of this subdivision shall not affect any proceedings, including notices of proposed rule-making, or any application for any license, permit, certificate, or financial assistance pending on the effective date of any title of this subdivision before any Federal agency, commission, or component thereof, functions of which are transferred by any title of this subdivision. Such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued.

(2) **ORDERS, APPEALS, PAYMENTS.**—Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this subdivision had not been enacted. Orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by the Secretary, by a court of competent jurisdiction, or by operation of law.

(3) **STATUTORY CONSTRUCTION.**—Nothing in this subdivision shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this subdivision had not been enacted.

(4) **REGULATIONS.**—The Secretary is authorized to promulgate regulations providing for the orderly transfer of proceedings continued under this subsection to the Department.

(c) NO EFFECT ON JUDICIAL OR ADMINISTRATIVE PROCEEDINGS.—Except as provided in subsection (e) and section 1327(d)—

(1) the provisions of this subdivision shall not affect suits commenced prior to the effective dates of the respective titles of this subdivision; and

(2) in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this subdivision had not been enacted.

(d) NONABATEMENT OF PROCEEDINGS.—No suit, action, or other proceeding commenced by or against any officer in the official capacity of such individual as an officer of any Federal agency, or any commission or component thereof, functions of which are transferred by any title of this subdivision, shall abate by reason of the enactment of this subdivision. No cause of action by or against any Federal agency, or any commission or component thereof, functions of which are transferred by any title of this subdivision, or by or against any officer thereof in the official capacity of such officer shall abate by reason of the enactment of this subdivision.

(e) CONTINUATION OF PROCEEDING WITH SUBSTITUTION OF PARTIES.—If, before the effective date of any title of this subdivision, any Federal agency, or officer thereof in the official capacity of such officer, is a party to a suit, and under this subdivision any function of such department, agency, or officer is transferred to the Secretary or any other official of the Department, then effective on such date such suit shall be continued with the Secretary or other appropriate official of the Department substituted or added as a party.

(f) REVIEWABILITY OF ORDERS AND ACTIONS UNDER TRANSFERRED FUNCTIONS.—Orders and actions of the Secretary in the exercise of functions transferred under any title of this subdivision shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the Federal agency or office, or part thereof, exercising such functions immediately preceding their transfer. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function transferred by any title of this subdivision shall apply to the exercise of such function by the Secretary.

#### SEC. 1616. AUTHORITY OF SECRETARY OF STATE TO FACILITATE TRANSITION.

Notwithstanding any provision of this subdivision, the Secretary of State, with the concurrence of the head of the appropriate Federal agency exercising functions transferred under this subdivision, may transfer the whole or part of such functions prior to the effective dates established in this subdivision, including the transfer of personnel and funds associated with such functions.

#### SEC. 1617. FINAL REPORT.

Not later than January 1, 2001, the President, in consultation with the Secretary of the Treasury and the Director of the Office of Management and Budget, shall submit to the appropriate congressional committees a report which provides a final accounting of the finances and operations of the agencies abolished under this subdivision.

### SUBDIVISION 2—FOREIGN RELATIONS AUTHORIZATION

#### TITLE XX—GENERAL PROVISIONS

##### SEC. 2001. SHORT TITLE.

This subdivision may be cited as the "Foreign Relations Authorization Act, Fiscal Years 1998 and 1999".

##### SEC. 2002. DEFINITION OF APPROPRIATE CONGRESSIONAL COMMITTEES.

In this subdivision, the term "appropriate congressional committees" means the Committee

on International Relations and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

### TITLE XXI—AUTHORIZATION OF APPROPRIATIONS FOR DEPARTMENT OF STATE

#### SEC. 2101. ADMINISTRATION OF FOREIGN AFFAIRS.

The following amounts are authorized to be appropriated for the Department of State under "Administration of Foreign Affairs" to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States and for other purposes authorized by law, including the diplomatic security program:

(1) DIPLOMATIC AND CONSULAR PROGRAMS.—For "Diplomatic and Consular Programs", of the Department of State \$1,746,977,000 for the fiscal year 1998.

(2) SALARIES AND EXPENSES.—(A) AUTHORIZATION OF APPROPRIATIONS.—For "Salaries and Expenses", of the Department of State \$363,513,000 for the fiscal year 1998.

(B) LIMITATIONS.—Of the amounts authorized to be appropriated by subparagraph (A) \$2,000,000 for fiscal year 1998 are authorized to be appropriated only for the recruitment of minorities for careers in the Foreign Service and international affairs.

(3) CAPITAL INVESTMENT FUND.—For "Capital Investment Fund", of the Department of State \$86,000,000 for the fiscal year 1998.

(4) SECURITY AND MAINTENANCE OF BUILDINGS ABROAD.—(A) For "Security and Maintenance of Buildings Abroad", \$404,000,000 for the fiscal year 1998.

(B) Of the amounts authorized to be appropriated for the period ending September 30, 1999, by subparagraph (A), up to \$90,000,000 are authorized to be appropriated for the renovation, acquisition, and construction of housing and secure diplomatic facilities at the United States Embassy in Beijing, and the United States Consulate in Shanghai, the People's Republic of China.

(5) REPRESENTATION ALLOWANCES.—For "Representation Allowances", \$4,300,000 for the fiscal year 1998.

(6) EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE.—For "Emergencies in the Diplomatic and Consular Service", \$5,500,000 for the fiscal year 1998.

(7) OFFICE OF THE INSPECTOR GENERAL.—For "Office of the Inspector General", \$28,300,000 for the fiscal year 1998.

(8) PAYMENT TO THE AMERICAN INSTITUTE IN TAIWAN.—For "Payment to the American Institute in Taiwan", \$14,490,000 for the fiscal year 1998.

(9) PROTECTION OF FOREIGN MISSIONS AND OFFICIALS.—(A) For "Protection of Foreign Missions and Officials", \$7,900,000 for the fiscal year 1998.

(B) Each amount appropriated pursuant to this paragraph is authorized to remain available through September 30 of the fiscal year following the fiscal year for which the amount appropriated was made.

(10) REPATRIATION LOANS.—For "Repatriation Loans", \$1,200,000 for the fiscal year 1998.

#### SEC. 2102. INTERNATIONAL COMMISSIONS.

The following amounts are authorized to be appropriated under "International Commissions" for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States and for other purposes authorized by law:

(1) INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO.—For "International Boundary and Water Commission, United States and Mexico"—

(A) for "Salaries and Expenses" \$18,200,000 for the fiscal year 1998; and

(B) for "Construction" \$6,463,000 for the fiscal year 1998.

(2) INTERNATIONAL BOUNDARY COMMISSION, UNITED STATES AND CANADA.—For "International Boundary Commission, United States and Canada", \$785,000 for the fiscal year 1998.

(3) INTERNATIONAL JOINT COMMISSION.—For "International Joint Commission", \$3,225,000 for the fiscal year 1998.

(4) INTERNATIONAL FISHERIES COMMISSIONS.—For "International Fisheries Commissions", \$14,549,000 for the fiscal year 1998.

#### SEC. 2103. GRANTS TO THE ASIA FOUNDATION.

Section 404 of The Asia Foundation Act (title IV of Public Law 98-164) is amended to read as follows:

"SEC. 404. There are authorized to be appropriated to the Secretary of State \$10,000,000 for the fiscal year 1998 for grants to The Asia Foundation pursuant to this title."

### TITLE XXII—DEPARTMENT OF STATE AUTHORITIES AND ACTIVITIES CHAPTER 1—AUTHORITIES AND ACTIVITIES

#### SEC. 2201. REIMBURSEMENT OF DEPARTMENT OF STATE FOR ASSISTANCE TO OVERSEAS EDUCATIONAL FACILITIES.

Section 29 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2701) is amended by adding at the end the following: "Notwithstanding any other provision of law, where the child of a United States citizen employee of an agency of the United States Government who is stationed outside the United States attends an educational facility assisted by the Secretary of State under this section, the head of that agency is authorized to reimburse, or credit with advance payment, the Department of State for funds used in providing assistance to such educational facilities, by grant or otherwise, under this section."

#### SEC. 2202. REVISION OF DEPARTMENT OF STATE REWARDS PROGRAM.

Section 36 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708) is amended to read as follows:

#### "SEC. 36. DEPARTMENT OF STATE REWARDS PROGRAM.

"(a) ESTABLISHMENT.—  
"(1) IN GENERAL.—There is established a program for the payment of rewards to carry out the purposes of this section.

"(2) PURPOSE.—The rewards program shall be designed to assist in the prevention of acts of international terrorism, international narcotics trafficking, and other related criminal acts.

"(3) IMPLEMENTATION.—The rewards program shall be administered by the Secretary of State, in consultation, as appropriate, with the Attorney General.

"(b) REWARDS AUTHORIZED.—In the sole discretion of the Secretary (except as provided in subsection (c)(2)) and in consultation, as appropriate, with the Attorney General, the Secretary may pay a reward to any individual who furnishes information leading to—

"(1) the arrest or conviction in any country of any individual for the commission of an act of international terrorism against a United States person or United States property;

"(2) the arrest or conviction in any country of any individual conspiring or attempting to commit an act of international terrorism against a United States person or United States property;

"(3) the arrest or conviction in any country of any individual for committing, primarily outside the territorial jurisdiction of the United States, any narcotics-related offense if that offense involves or is a significant part of conduct that involves—

"(A) a violation of United States narcotics laws such that the individual would be a major violator of such laws;

"(B) the killing or kidnapping of—

"(i) any officer, employee, or contract employee of the United States Government while such individual is engaged in official duties, or on account of that individual's official duties, in connection with the enforcement of United States narcotics laws or the implementing of United States narcotics control objectives; or

"(ii) a member of the immediate family of any such individual on account of that individual's official duties, in connection with the enforcement of United States narcotics laws or the implementing of United States narcotics control objectives; or

"(C) an attempt or conspiracy to commit any act described in subparagraph (A) or (B);

"(4) the arrest or conviction in any country of any individual aiding or abetting in the commission of an act described in paragraph (1), (2), or (3); or

"(5) the prevention, frustration, or favorable resolution of an act described in paragraph (1), (2), or (3).

"(c) COORDINATION.—

"(1) PROCEDURES.—To ensure that the payment of rewards pursuant to this section does not duplicate or interfere with the payment of informants or the obtaining of evidence or information, as authorized to the Department of Justice, the offering, administration, and payment of rewards under this section, including procedures for—

"(A) identifying individuals, organizations, and offenses with respect to which rewards will be offered;

"(B) the publication of rewards;

"(C) the offering of joint rewards with foreign governments;

"(D) the receipt and analysis of data; and

"(E) the payment and approval of payment,

shall be governed by procedures developed by the Secretary of State, in consultation with the Attorney General.

"(2) PRIOR APPROVAL OF ATTORNEY GENERAL REQUIRED.—Before making a reward under this section in a matter over which there is Federal criminal jurisdiction, the Secretary of State shall obtain the concurrence of the Attorney General.

"(d) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—Notwithstanding section 102 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99-93; 99 Stat. 408), but subject to paragraph (2), there are authorized to be appropriated to the Department of State from time to time such amounts as may be necessary to carry out this section.

"(2) LIMITATION.—No amount of funds may be appropriated under paragraph (1) which, when added to the unobligated balance of amounts previously appropriated to carry out this section, would cause such amounts to exceed \$15,000,000.

"(3) ALLOCATION OF FUNDS.—To the maximum extent practicable, funds made available to carry out this section should be distributed equally for the purpose of preventing acts of international terrorism and for the purpose of preventing international narcotics trafficking.

"(4) PERIOD OF AVAILABILITY.—Amounts appropriated under paragraph (1) shall remain available until expended.

"(e) LIMITATIONS AND CERTIFICATION.—

"(1) MAXIMUM AMOUNT.—No reward paid under this section may exceed \$2,000,000.

"(2) APPROVAL.—A reward under this section of more than \$100,000 may not be made without the approval of the Secretary.

"(3) CERTIFICATION FOR PAYMENT.—Any reward granted under this section shall be approved and certified for payment by the Secretary.

"(4) NONDELEGATION OF AUTHORITY.—The authority to approve rewards of more than \$100,000 set forth in paragraph (2) may not be delegated.

"(5) PROTECTION MEASURES.—If the Secretary determines that the identity of the recipient of a reward or of the members of the recipient's immediate family must be protected, the Secretary may take such measures in connection with the payment of the reward as he considers necessary to effect such protection.

"(f) INELIGIBILITY.—An officer or employee of any entity of Federal, State, or local government or of a foreign government who, while in the performance of his or her official duties, furnishes information described in subsection (b) shall not be eligible for a reward under this section.

"(g) REPORTS.—

"(1) REPORTS ON PAYMENT OF REWARDS.—Not later than 30 days after the payment of any reward under this section, the Secretary shall submit a report to the appropriate congressional committees with respect to such reward. The report, which may be submitted in classified form if necessary, shall specify the amount of the reward paid, to whom the reward was paid, and the acts with respect to which the reward was paid. The report shall also discuss the significance of the information for which the reward was paid in dealing with those acts.

"(2) ANNUAL REPORTS.—Not later than 60 days after the end of each fiscal year, the Secretary shall submit a report to the appropriate congressional committees with respect to the operation of the rewards program. The report shall provide information on the total amounts expended during the fiscal year ending in that year to carry out this section, including amounts expended to publicize the availability of rewards.

"(h) PUBLICATION REGARDING REWARDS OFFERED BY FOREIGN GOVERNMENTS.—Notwithstanding any other provision of this section, in the sole discretion of the Secretary, the resources of the rewards program shall be available for the publication of rewards offered by foreign governments regarding acts of international terrorism which do not involve United States persons or property or a violation of the narcotics laws of the United States.

"(i) DETERMINATIONS OF THE SECRETARY.—A determination made by the Secretary under this section shall be final and conclusive and shall not be subject to judicial review.

"(j) DEFINITIONS.—As used in this section:

"(1) ACT OF INTERNATIONAL TERRORISM.—The term 'act of international terrorism' includes—

"(A) any act substantially contributing to the acquisition of unsafeguarded special nuclear material (as defined in paragraph (8) of section 830 of the Nuclear Proliferation Prevention Act of 1994 (22 U.S.C. 3201 note)) or any nuclear explosive device (as defined in paragraph (4) of that section) by an individual, group, or non-nuclear-weapon state (as defined in paragraph (5) of that section); and

"(B) any act, as determined by the Secretary, which materially supports the conduct of international terrorism, including the counterfeiting of United States currency or the illegal use of other monetary instruments by an individual, group, or country supporting international terrorism as determined for purposes of section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)(A)).

"(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term 'appropriate congressional committees' means the Committee on International Relations and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

"(3) MEMBER OF THE IMMEDIATE FAMILY.—The term 'member of the immediate family', with respect to an individual, includes—

"(A) a spouse, parent, brother, sister, or child of the individual;

"(B) a person with respect to whom the individual stands in loco parentis; and

"(C) any person not covered by subparagraph (A) or (B) who is living in the individual's household and is related to the individual by blood or marriage.

"(4) REWARDS PROGRAM.—The term 'rewards program' means the program established in subsection (a)(1).

"(5) UNITED STATES NARCOTICS LAWS.—The term 'United States narcotics laws' means the laws of the United States for the prevention and control of illicit trafficking in controlled substances (as such term is defined in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6))).

"(6) UNITED STATES PERSON.—The term 'United States person' means—

"(A) a citizen or national of the United States; and

"(B) an alien lawfully present in the United States."

#### SEC. 2203. RETENTION OF ADDITIONAL DEFENSE TRADE CONTROLS REGISTRATION FEES.

Section 45(a) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2717(a)) is amended—

(1) by striking "\$700,000 of the" and inserting "all";

(2) at the end of paragraph (1), by striking "and";

(3) in paragraph (2)—

(A) by striking "functions" and inserting "functions, including compliance and enforcement activities,"; and

(B) by striking the period at the end and inserting "; and"; and

(4) by adding at the end the following new paragraph:

"(3) the enhancement of defense trade export compliance and enforcement activities, including compliance audits of United States and foreign parties, the conduct of administrative proceedings, monitoring of end-uses in cases of direct commercial arms sales or other transfers, and cooperation in proceedings for enforcement of criminal laws related to defense trade export controls."

#### SEC. 2204. FEES FOR COMMERCIAL SERVICES.

Section 52(b) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2724(b)) is amended by adding at the end the following: "Funds deposited under this subsection shall remain available for obligation through September 30 of the fiscal year following the fiscal year in which the funds were deposited."

#### SEC. 2205. PILOT PROGRAM FOR FOREIGN AFFAIRS REIMBURSEMENT.

(a) FOREIGN AFFAIRS REIMBURSEMENT.—

(1) IN GENERAL.—Section 701 of the Foreign Service Act of 1980 (22 U.S.C. 4021) is amended—

(A) by redesignating subsection (d)(4) as subsection (g); and

(B) by inserting after subsection (d) the following new subsections:

"(e)(1) The Secretary may provide appropriate training or related services, except foreign language training, through the institution to any United States person (or any employee or family member thereof) that is engaged in business abroad.

"(2) The Secretary may provide job-related training or related services, including foreign language training, through the institution to a United States person under contract to provide services to the United States Government or to any employee thereof that is performing such services.

"(3) Training under this subsection may be provided only to the extent that space is available and only on a reimbursable or advance-of-funds basis. Reimbursements and advances shall be credited to the currently available applicable appropriation account.

"(4) Training and related services under this subsection is authorized only to the extent that

it will not interfere with the institution's primary mission of training employees of the Department and of other agencies in the field of foreign relations.

"(5) In this subsection, the term 'United States person' means—

"(A) any individual who is a citizen or national of the United States; or

"(B) any corporation, company, partnership, association, or other legal entity that is 50 percent or more beneficially owned by citizens or nationals of the United States.

"(f)(1) The Secretary is authorized to provide, on a reimbursable basis, training programs to Members of Congress or the Judiciary.

"(2) Employees of the legislative branch and employees of the judicial branch may participate, on a reimbursable basis, in training programs offered by the institution.

"(3) Reimbursements collected under this subsection shall be credited to the currently available applicable appropriation account.

"(4) Training under this subsection is authorized only to the extent that it will not interfere with the institution's primary mission of training employees of the Department and of other agencies in the field of foreign relations."

(2) **EFFECTIVE DATE.**—The amendments made by paragraph (1) shall take effect on October 1, 1997.

(3) **TERMINATION OF PILOT PROGRAM.**—Effective October 1, 2001, section 701 of the Foreign Service Act of 1980 (22 U.S.C. 4021), as amended by this subsection, is further amended—

(A) by striking subsections (e) and (f); and  
(B) by redesignating subsection (g) as paragraph (4) of subsection (d).

(b) **FEES FOR USE OF NATIONAL FOREIGN AFFAIRS TRAINING CENTER.**—Title I of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a et seq.) is amended by adding at the end the following new section:

**"SEC. 53. FEES FOR USE OF THE NATIONAL FOREIGN AFFAIRS TRAINING CENTER.**

"The Secretary is authorized to charge a fee for use of the National Foreign Affairs Training Center of the Department of State. Amounts collected under this section (including reimbursements and surcharges) shall be deposited as an offsetting collection to any Department of State appropriation to recover the costs of such use and shall remain available for obligation until expended."

(c) **REPORTING ON PILOT PROGRAM.**—Two years after the date of enactment of this Act, the Secretary of State shall submit a report to the appropriate congressional committees containing—

(1) the number of persons who have taken advantage of the pilot program established under subsections (e) and (f) of section 701 of the Foreign Service Act of 1980 and section 53 of the State Department Basic Authorities Act of 1956, as added by this section;

(2) the business or government affiliation of such persons;

(3) the amount of fees collected; and

(4) the impact of the program on the primary mission of the National Foreign Affairs Training Center.

**SEC. 2206. FEE FOR USE OF DIPLOMATIC RECEPTION ROOMS.**

Title I of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a et seq.), as amended by this division, is further amended by adding at the end the following new section:

**"SEC. 54. FEE FOR USE OF DIPLOMATIC RECEPTION ROOMS.**

"The Secretary is authorized to charge a fee for use of the diplomatic reception rooms of the Department of State. Amounts collected under this section (including reimbursements and surcharges) shall be deposited as an offsetting collection to any Department of State appropria-

tion to recover the costs of such use and shall remain available for obligation until expended."

**SEC. 2207. ACCOUNTING OF COLLECTIONS IN BUDGET PRESENTATION DOCUMENTS.**

Title I of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a et seq.), as amended by this division, is further amended by adding at the end the following new section:

**"SEC. 55. ACCOUNTING OF COLLECTIONS IN BUDGET PRESENTATION DOCUMENTS.**

"The Secretary shall include in the annual Congressional Presentation Document and the Budget in Brief a detailed accounting of the total collections received by the Department of State from all sources, including fee collections. Reporting on total collections shall also cover collections from the preceding fiscal year and the projected expenditures from all collections accounts."

**SEC. 2208. OFFICE OF THE INSPECTOR GENERAL.**

(a) **PROCEDURES.**—Section 209(c) of the Foreign Service Act of 1980 (22 U.S.C. 3929(c)) is amended by adding at the end the following:

"(4) The Inspector General shall develop and provide to employees—

"(A) information detailing their rights to counsel; and

"(B) guidelines describing in general terms the policies and procedures of the Office of Inspector General with respect to individuals under investigation other than matters exempt from disclosure under other provisions of law."

(b) **NOTICE.**—Section 209(e) of the Foreign Service Act of 1980 (22 U.S.C. 3929(e)) is amended by adding at the end the following new paragraph:

"(3) The Inspector General shall ensure that only officials from the Office of the Inspector General may participate in formal interviews or other formal meetings with the individual who is the subject of an investigation, other than an intelligence-related or sensitive undercover investigation, or except in those situations when the Inspector General has a reasonable basis to believe that such notice would cause tampering with witnesses, destroying evidence, or endangering the lives of individuals, unless that individual receives prior adequate notice regarding participation by officials of any other agency, including the Department of Justice, in such interviews or meetings."

(c) **REPORT.**—

(1) **IN GENERAL.**—Not later than April 30, 1998, the Inspector General of the Department of State and the Foreign Service shall submit a report to the appropriate congressional committees which includes the following:

(A) Detailed descriptions of the internal guidance developed or used by the Office of the Inspector General with respect to public disclosure of any information related to an ongoing investigation of any officer or employee of the Department of State, the United States Information Agency, or the United States Arms Control and Disarmament Agency.

(B) Detailed descriptions of those instances for the year ending December 31, 1997, in which any disclosure of information to the public by an employee of the Office of Inspector General about an ongoing investigation occurred, including details on the recipient of the information, the date of the disclosure, and the internal clearance process for the disclosure.

(2) **STATUTORY CONSTRUCTION.**—Disclosure of information to the public under this section shall not be construed to include information shared with Congress by an employee of the Office of the Inspector General.

**SEC. 2209. CAPITAL INVESTMENT FUND.**

Section 135 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 2684a) is amended—

(1) in subsection (a), by inserting "and enhancement" after "procurement";

(2) in subsection (c), by striking "are authorized to" and inserting "shall";

(3) in subsection (d), by striking "for expenditure to procure capital equipment and information technology" and inserting "for purposes of subsection (a)"; and

(4) by amending subsection (e) to read as follows:

"(e) **REPROGRAMMING PROCEDURES.**—Funds credited to the Capital Investment Fund shall not be available for obligation or expenditure except in compliance with the procedures applicable to reprogramming notifications under section 34 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2706)."

**SEC. 2210. CONTRACTING FOR LOCAL GUARDS SERVICES OVERSEAS.**

Section 136(c) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (22 U.S.C. 4864(c)) is amended—

(1) by amending paragraph (3) to read as follows:

"(3) in evaluating proposals for such contracts, award contracts to the technically acceptable firm offering the lowest evaluated price, except that proposals of United States persons and qualified United States joint venture persons (as defined in subsection (d)) shall be evaluated by reducing the bid price by 10 percent;"

(2) by inserting "and" at the end of paragraph (5);

(3) by striking "and" at the end of paragraph (6) and inserting a period; and

(4) by striking paragraph (7).

**SEC. 2211. AUTHORITY OF THE FOREIGN CLAIMS SETTLEMENT COMMISSION.**

Section 4(a) of the International Claims Settlement Act of 1949 (22 U.S.C. 1623(a)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) in the first sentence, by striking "(a) The" and all that follows through the period and inserting the following:

"(a)(1) The Commission shall have jurisdiction to receive, examine, adjudicate, and render a final decision with respect to any claim of the Government of the United States or of any national of the United States—

"(A) included within the terms of the Yugoslav Claims Agreement of 1948;

"(B) included within the terms of any claims agreement concluded on or after March 10, 1954, between the Government of the United States and a foreign government (exclusive of governments against which the United States declared the existence of a state of war during World War II) similarly providing for the settlement and discharge of claims of the Government of the United States and of nationals of the United States against a foreign government, arising out of the nationalization or other taking of property, by the agreement of the Government of the United States to accept from that government a sum in en bloc settlement thereof; or

"(C) included in a category of claims against a foreign government which is referred to the Commission by the Secretary of State."; and

(3) by redesignating the second sentence as paragraph (2).

**SEC. 2212. EXPENSES RELATING TO CERTAIN INTERNATIONAL CLAIMS AND PROCEEDINGS.**

(a) **RECOVERY OF CERTAIN EXPENSES.**—The Department of State Appropriation Act of 1937 (22 U.S.C. 2661) is amended in the fifth undesignated paragraph under the heading entitled "INTERNATIONAL FISHERIES COMMISSION" by inserting "(including such expenses as salaries and other personnel expenses)" after "extraordinary expenses".

(b) **PROCUREMENT OF SERVICES.**—Section 38(c) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2710(c)) is amended in the first sentence by inserting "personal and" before "other support services".

**SEC. 2213. GRANTS TO REMEDY INTERNATIONAL ABDUCTIONS OF CHILDREN.**

Section 7 of the International Child Abduction Remedies Act (42 U.S.C. 11606; Public Law 100-300) is amended by adding at the end the following new subsection:

"(e) **GRANT AUTHORITY.**—The United States Central Authority is authorized to make grants to, or enter into contracts or agreements with, any individual, corporation, other Federal, State, or local agency, or private entity or organization in the United States for purposes of accomplishing its responsibilities under the Convention and this Act."

**SEC. 2214. COUNTERDRUG AND ANTICRIME ACTIVITIES OF THE DEPARTMENT OF STATE.**

(a) **COUNTERDRUG AND LAW ENFORCEMENT STRATEGY.**—

(1) **REQUIREMENT.**—Not later than 180 days after the date of enactment of this Act, the Secretary of State shall establish, implement, and submit to Congress a comprehensive, long-term strategy to carry out the counterdrug responsibilities of the Department of State in a manner consistent with the National Drug Control Strategy. The strategy shall involve all elements of the Department in the United States and abroad.

(2) **OBJECTIVES.**—In establishing the strategy, the Secretary shall—

(A) coordinate with the Office of National Drug Control Policy in the development of clear, specific, and measurable counterdrug objectives for the Department that support the goals and objectives of the National Drug Control Strategy;

(B) develop specific and, to the maximum extent practicable, quantifiable measures of performance relating to the objectives, including annual and long-term measures of performance, for purposes of assessing the success of the Department in meeting the objectives;

(C) assign responsibilities for meeting the objectives to appropriate elements of the Department;

(D) develop an operational structure within the Department that minimizes impediments to meeting the objectives;

(E) ensure that every United States ambassador or chief of mission is fully briefed on the strategy, and works to achieve the objectives; and

(F) ensure that—

(i) all budgetary requests and transfers of equipment (including the financing of foreign military sales and the transfer of excess defense articles) relating to international counterdrug efforts conforms with the objectives; and

(ii) the recommendations of the Department regarding certification determinations made by the President on March 1 as to the counterdrug cooperation, or adequate steps on its own, of each major illicit drug producing and drug trafficking country to achieve full compliance with the goals and objectives established by the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances also conform to meet such objectives.

(3) **REPORTS.**—Not later than February 15 of each year subsequent to the submission of the strategy described in paragraph (1), the Secretary shall submit to Congress an update of the strategy. The update shall include—

(A) an outline of the proposed activities with respect to the strategy during the succeeding year, including the manner in which such activities will meet the objectives set forth in paragraph (2); and

(B) detailed information on how certification determinations described in paragraph (2)(F) made the previous year affected achievement of the objectives set forth in paragraph (2) for the previous calendar year.

(4) **LIMITATION ON DELEGATION.**—The Secretary shall designate an official in the Department who reports directly to the Secretary to oversee the implementation of the strategy throughout the Department.

(b) **INFORMATION ON INTERNATIONAL CRIMINALS.**—

(1) **INFORMATION SYSTEM.**—The Secretary shall, in consultation with the heads of appropriate United States law enforcement agencies, including the Attorney General and the Secretary of the Treasury, take appropriate actions to establish an information system or improve existing information systems containing comprehensive information on serious crimes committed by foreign nationals. The information system shall be available to United States embassies and missions abroad for use in consideration of applications for visas for entry into the United States.

(2) **REPORT.**—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the appropriate congressional committees a report on the actions taken under paragraph (1).

(c) **OVERSEAS COORDINATION OF COUNTERDRUG AND ANTICRIME PROGRAMS, POLICY, AND ASSISTANCE.**—

(1) **STRENGTHENING COORDINATION.**—The responsibilities of every diplomatic mission of the United States shall include the strengthening of cooperation between and among the United States and foreign governmental entities and multilateral entities with respect to activities relating to international narcotics and crime.

(2) **DESIGNATION OF OFFICERS.**—

(A) **IN GENERAL.**—Consistent with existing memoranda of understanding between the Department of State and other departments and agencies of the United States, including the Department of Justice, the chief of mission of every diplomatic mission of the United States shall designate an officer or officers within the mission to carry out the responsibility of the mission under paragraph (1), including the coordination of counterdrug, law enforcement, rule of law, and administration of justice programs, policy, and assistance. Such officer or officers shall report to the chief of mission, or the designee of the chief of mission, on a regular basis regarding activities undertaken in carrying out such responsibility.

(B) **REPORTS.**—The chief of mission of every diplomatic mission of the United States shall submit to the Secretary on a regular basis a report on the actions undertaken by the mission to carry out such responsibility.

(3) **REPORT TO CONGRESS.**—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives a report on the status of any proposals for action or on action undertaken to improve staffing and personnel management at diplomatic missions of the United States in order to carry out the responsibility set forth in paragraph (1).

**SEC. 2215. ANNUAL REPORT ON OVERSEAS SURPLUS PROPERTIES.**

The Foreign Service Buildings Act, 1926 (22 U.S.C. 292 et seq.) is amended by adding at the end the following new section:

"SEC. 12. Not later than March 1 of each year, the Secretary of State shall submit to Congress a report listing overseas United States surplus properties that are administered under this Act and that have been identified for sale."

**SEC. 2216. HUMAN RIGHTS REPORTS.**

Section 116(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n(d)) is amended—

(1) by striking "January 31" and inserting "February 25";

(2) redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), respectively; and

(3) by inserting after paragraph (2) the following new paragraph:

"(3) the status of child labor practices in each country, including—

"(A) whether such country has adopted policies to protect children from exploitation in the workplace, including a prohibition of forced and bonded labor and policies regarding acceptable working conditions; and

"(B) the extent to which each country enforces such policies, including the adequacy of the resources and oversight dedicated to such policies;"

**SEC. 2217. REPORTS AND POLICY CONCERNING DIPLOMATIC IMMUNITY.**

Title I of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a et seq.), as amended by this division, is further amended by adding at the end the following new section:

**"SEC. 56. CRIMES COMMITTED BY DIPLOMATS.**

"(a) **ANNUAL REPORT CONCERNING DIPLOMATIC IMMUNITY.**—

"(1) **REPORT TO CONGRESS.**—The Secretary of State shall prepare and submit to the Congress, annually, a report concerning diplomatic immunity entitled "Report on Cases Involving Diplomatic Immunity".

"(2) **CONTENT OF REPORT.**—In addition to such other information as the Secretary of State may consider appropriate, the report under paragraph (1) shall include the following:

"(A) The number of persons residing in the United States who enjoy full immunity from the criminal jurisdiction of the United States under laws extending diplomatic privileges and immunities.

"(B) Each case involving an alien described in subparagraph (A) in which an appropriate authority of a State, a political subdivision of a State, or the United States reported to the Department of State that the authority had reasonable cause to believe the alien committed a serious criminal offense within the United States, and any additional information provided to the Secretary relating to other serious criminal offenses that any such authority had reasonable cause to believe the alien committed before the period covered by the report. The Secretary may omit from such report any matter the provision of which the Secretary reasonably believes would compromise a criminal investigation or prosecution or which would directly compromise law enforcement or intelligence sources or methods.

"(C) Each case described in subparagraph (B) in which the Secretary of State has certified that a person enjoys full immunity from the criminal jurisdiction of the United States under laws extending diplomatic privileges and immunities.

"(D) The number of United States citizens who are residing in a receiving state and who enjoy full immunity from the criminal jurisdiction of such state under laws extending diplomatic privileges and immunities.

"(E) Each case involving a United States citizen under subparagraph (D) in which the United States has been requested by the government of a receiving state to waive the immunity from criminal jurisdiction of the United States citizen.

"(F) Whether the Secretary has made the notifications referred to in subsection (c) during the period covered by the report.

"(3) **SERIOUS CRIMINAL OFFENSE DEFINED.**—For the purposes of this section, the term 'serious criminal offense' means—

"(A) any felony under Federal, State, or local law;

"(B) any Federal, State, or local offense punishable by a term of imprisonment of more than 1 year;

"(C) any crime of violence as defined for purposes of section 16 of title 18, United States Code; or

"(D)(i) driving under the influence of alcohol or drugs;

"(ii) reckless driving; or

"(iii) driving while intoxicated.

"(b) UNITED STATES POLICY CONCERNING REFORM OF DIPLOMATIC IMMUNITY.—It is the sense of the Congress that the Secretary of State should explore, in appropriate fora, whether states should enter into agreements and adopt legislation—

"(1) to provide jurisdiction in the sending state to prosecute crimes committed in the receiving state by persons entitled to immunity from criminal jurisdiction under laws extending diplomatic privileges and immunities; and

"(2) to provide that where there is probable cause to believe that an individual who is entitled to immunity from the criminal jurisdiction of the receiving state under laws extending diplomatic privileges and immunities committed a serious crime, the sending state will waive such immunity or the sending state will prosecute such individual.

"(c) NOTIFICATION OF DIPLOMATIC CORPS.—The Secretary should periodically notify each foreign mission of United States policies relating to criminal offenses committed by individuals with immunity from the criminal jurisdiction of the United States under laws extending diplomatic privileges and immunities."

**SEC. 2218. REAFFIRMING UNITED STATES INTERNATIONAL TELECOMMUNICATIONS POLICY.**

(a) PROCUREMENT POLICY.—It is the policy of the United States to foster and support procurement of goods and services from private, commercial companies.

(b) IMPLEMENTATION.—In order to achieve the policy set forth in subsection (a), the Diplomatic Telecommunications Service Program Office (DTS-PO) shall—

(1) utilize full and open competition in the procurement of telecommunications services, including satellite space segment, for the Department of State and each other Federal entity represented at United States diplomatic missions and consular posts overseas;

(2) make every effort to ensure and promote the participation in the competition for such procurement of commercial private sector providers of satellite space segment who have no ownership or other connection with an intergovernmental satellite organization; and

(3) implement the competitive procedures required by paragraphs (1) and (2) at the prime contracting level and, to the maximum extent practicable, the subcontracting level.

**SEC. 2219. REDUCTION OF REPORTING.**

(a) REPEALS.—The following provisions of law are repealed:

(1) MODEL FOREIGN LANGUAGE COMPETENCE POSTS.—The second sentence of section 161(c) of the Foreign Relations Authorization Act, Fiscal Year 1990 and 1991 (22 U.S.C. 4171 note).

(2) ACTIONS OF THE GOVERNMENT OF HAITI.—Section 705(c) of the International Security and Development Cooperation Act of 1985 (Public Law 99-83).

(3) TRAINING FACILITY FOR THE FOREIGN SERVICE INSTITUTE.—Section 123(e)(2) of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99-93).

(4) MILITARY ASSISTANCE FOR HAITI.—Section 203(c) of the Special Foreign Assistance Act of 1986 (Public Law 99-529).

(5) INTERNATIONAL SUGAR AGREEMENT, 1977.—Section 5 of the Act entitled "An Act providing for the implementation of the International Sugar Agreement, 1977, and for other purposes" (Public Law 96-236; 7 U.S.C. 3605 and 3606).

(6) AUDIENCE SURVEY OF WORLDNET PROGRAM.—Section 209 (c) and (d) of the Foreign

Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204).

(7) RESEARCH ON THE NEAR AND MIDDLE EAST.—Section 228(b) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 22 U.S.C. 2452 note).

(b) PROGRESS TOWARD REGIONAL NONPROLIFERATION.—Section 620F(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2376(c)); relating to periodic reports on progress toward regional nonproliferation) is amended by striking "Not later than April 1, 1993 and every six months thereafter," and inserting "Not later than April 1 of each year."

(c) REPORT ON PARTICIPATION BY UNITED STATES MILITARY PERSONNEL ABROAD IN UNITED STATES ELECTIONS.—Section 101(b)(6) of the Uniformed and Overseas Citizens Absentee Voting Act of 1986 (42 U.S.C. 1973j(b)(6)) is amended by striking "of voter participation" and inserting "of uniformed services voter participation, a general assessment of overseas nonmilitary participation."

**CHAPTER 2—CONSULAR AUTHORITIES OF THE DEPARTMENT OF STATE**

**SEC. 2221. USE OF CERTAIN PASSPORT PROCESSING FEES FOR ENHANCED PASSPORT SERVICES.**

For the fiscal year 1998, of the fees collected for expedited passport processing and deposited to an offsetting collection pursuant to title V of the Department of State and Related Agencies Appropriations Act for Fiscal Year 1995 (Public Law 103-317; 22 U.S.C. 214 note), 30 percent shall be available only for enhancing passport services for United States citizens, improving the integrity and efficiency of the passport issuance process, improving the secure nature of the United States passport, investigating passport fraud, and deterring entry into the United States by terrorists, drug traffickers, or other criminals.

**SEC. 2222. SURCHARGE FOR PROCESSING CERTAIN MACHINE READABLE VISAS.**

Section 140(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236) is amended—

(1) in paragraph (2), by striking "providing consular services" and inserting "the Department of State's border security program, including the costs of the installation and operation of the machine readable visa and automated name-check process, improving the quality and security of the United States passport, investigations of passport and visa fraud, and the technological infrastructure to support the programs referred to in this sentence";

(2) by striking the first sentence of paragraph (3) and inserting "For the fiscal year 1998, any amount collected under paragraph (1) that exceeds \$140,000,000 may be made available only if a notification is submitted to Congress in accordance with the procedures applicable to reprogramming notifications under section 34 of the State Department Basic Authorities Act of 1956."; and

(3) by striking paragraphs (4) and (5).

**SEC. 2223. CONSULAR OFFICERS.**

(a) PERSONS AUTHORIZED TO ISSUE REPORTS OF BIRTHS ABROAD.—Section 33 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2705) is amended in paragraph (2) by adding at the end the following: "For purposes of this paragraph, the term 'consular officer' includes any United States citizen employee of the Department of State who is designated by the Secretary of State to adjudicate nationality abroad pursuant to such regulations as the Secretary may prescribe."

(b) PROVISIONS APPLICABLE TO CONSULAR OFFICERS.—Section 1689 of the Revised Statutes (22 U.S.C. 4191) is amended by inserting "and to such other United States citizen employees of the Department of State as may be designated

by the Secretary of State pursuant to such regulations as the Secretary may prescribe" after "such officers".

**(c) PERSONS AUTHORIZED TO AUTHENTICATE FOREIGN DOCUMENTS.—**

(1) DESIGNATED UNITED STATES CITIZENS PERFORMING NOTARIAL ACTS.—Section 1750 of the Revised Statutes, as amended (22 U.S.C. 4221) is further amended by inserting after the first sentence: "At any post, port, or place where there is no consular officer, the Secretary of State may authorize any other officer or employee of the United States Government who is a United States citizen serving overseas, including any contract employee of the United States Government, to perform such acts, and any such contractor so authorized shall not be considered to be a consular officer."

(2) DEFINITION OF CONSULAR OFFICERS.—Section 3492(c) of title 18, United States Code, is amended by adding at the end the following: "For purposes of this section and sections 3493 through 3496 of this title, the term 'consular officers' includes any United States citizen who is designated to perform notarial functions pursuant to section 1750 of the Revised Statutes, as amended (22 U.S.C. 4221)."

(d) PERSONS AUTHORIZED TO ADMINISTER OATHS.—Section 115 of title 35, United States Code, is amended by adding at the end the following: "For purposes of this section, a consular officer shall include any United States citizen serving overseas, authorized to perform notarial functions pursuant to section 1750 of the Revised Statutes, as amended (22 U.S.C. 4221)."

(e) DEFINITION OF CONSULAR OFFICER.—Section 101(a)(9) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(9)) is amended by—

(1) inserting "or employee" after "officer" the second place it appears; and

(2) inserting before the period at the end of the sentence "or, when used in title III, for the purpose of adjudicating nationality".

(f) TRAINING FOR EMPLOYEES PERFORMING CONSULAR FUNCTIONS.—Section 704 of the Foreign Service Act of 1980 (22 U.S.C. 4024) is amended by adding at the end the following new subsection:

"(d)(1) Before a United States citizen employee (other than a diplomatic or consular officer of the United States) may be designated by the Secretary of State, pursuant to regulation, to perform a consular function abroad, the United States citizen employee shall—

"(A) be required to complete successfully a program of training essentially equivalent to the training that a consular officer who is a member of the Foreign Service would receive for purposes of performing such function; and

"(B) be certified by an appropriate official of the Department of State to be qualified by knowledge and experience to perform such function.

"(2) As used in this subsection, the term 'consular function' includes the issuance of visas, the performance of notarial and other legalization functions, the adjudication of passport applications, the adjudication of nationality, and the issuance of citizenship documentation."

**SEC. 2224. REPEAL OF OUTDATED CONSULAR RECEIPT REQUIREMENTS.**

Sections 1726, 1727, and 1728 of the Revised Statutes of the United States (22 U.S.C. 4212, 4213, and 4214), as amended (relating to accounting for consular fees) are repealed.

**SEC. 2225. ELIMINATION OF DUPLICATE FEDERAL REGISTER PUBLICATION FOR TRAVEL ADVISORIES.**

(a) FOREIGN AIRPORTS.—Section 44908(a) of title 49, United States Code, is amended—

(1) by inserting "and" at the end of paragraph (1);

(2) by striking paragraph (2); and

(3) by redesignating paragraph (3) as paragraph (2).

(b) **FOREIGN PORTS.**—Section 908(a) of the International Maritime and Port Security Act of 1986 (46 U.S.C. App. 1804(a)) is amended by striking the second sentence, relating to Federal Register publication by the Secretary of State.

**SEC. 2226. DENIAL OF VISAS TO CONFISCATORS OF AMERICAN PROPERTY.**

(a) **DENIAL OF VISAS.**—Except as otherwise provided in section 401 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (Public Law 104-114), and subject to subsection (b), the Secretary of State may deny the issuance of a visa to any alien who—

(1) through the abuse of position, including a governmental or political party position, converts or has converted for personal gain real property that has been confiscated or expropriated, a claim to which is owned by a national of the United States, or who is complicit in such a conversion; or

(2) induces any of the actions or omissions described in paragraph (1) by any person.

(b) **EXCEPTIONS.**—Subsection (a) shall not apply to—

(1) any country established by international mandate through the United Nations; or

(2) any territory recognized by the United States Government to be in dispute.

(c) **REPORTING REQUIREMENT.**—Not later than 6 months after the date of enactment of this Act, and every 12 months thereafter, the Secretary of State shall submit to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate a report, including—

(1) a list of aliens who have been denied a visa under this subsection; and

(2) a list of aliens who could have been denied a visa under subsection (a) but were issued a visa and an explanation as to why each such visa was issued.

**SEC. 2227. INADMISSIBILITY OF ANY ALIEN SUPPORTING AN INTERNATIONAL CHILD ABDUCTOR.**

(a) **AMENDMENT OF IMMIGRATION AND NATIONALITY ACT.**—Section 212(a)(10)(C) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(10)(C)) is amended by striking clause (ii) and inserting the following:

“(ii) **ALIENS SUPPORTING ABDUCTORS AND RELATIVES OF ABDUCTORS.**—Any alien who—

“(I) is known by the Secretary of State to have intentionally assisted an alien in the conduct described in clause (i),

“(II) is known by the Secretary of State to be intentionally providing material support or safe haven to an alien described in clause (i), or

“(III) is a spouse (other than the spouse who is the parent of the abducted child), child (other than the abducted child), parent, sibling, or agent of an alien described in clause (i), if such person has been designated by the Secretary of State at the Secretary's sole and unreviewable discretion,

is inadmissible until the child described in clause (i) is surrendered to the person granted custody by the order described in that clause, and such person and child are permitted to return to the United States or such person's place of residence.

“(iii) **EXCEPTIONS.**—Clauses (i) and (ii) shall not apply—

“(I) to a government official of the United States who is acting within the scope of his or her official duties;

“(II) to a government official of any foreign government if the official has been designated by the Secretary of State at the Secretary's sole and unreviewable discretion; or

“(III) so long as the child is located in a foreign state that is a party to the Convention on the Civil Aspects of International Child Abduction, done at The Hague on October 25, 1980.”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to aliens seeking

admission to the United States on or after the date of enactment of this Act.

**SEC. 2228. HAITI; EXCLUSION OF CERTAIN ALIENS; REPORTING REQUIREMENTS.**

(a) **GROUNDS FOR EXCLUSION.**—Except as provided in subsection (c), a consular officer shall not issue a visa to, and the Attorney General shall exclude from the United States, any alien who the Secretary of State, in the Secretary's sole and unreviewable discretion, has reason to believe is a person who—

(1) has been credibly alleged to have ordered, carried out, or materially assisted, in the extrajudicial and political killings of Antoine Izmerly, Guy Malary, Father Jean-Marie Vincent, Pastor Antoine Leroy, Jacques Fleurival, Mireille Durocher Bertin, Eugene Baillergeau, Michelange Hermann, Max Mayard, Romulus Dumarsais, Claude Yves Marie, Mario Beaubrun, Leslie Grimar, Joseph Chilove, Michel Gonzalez, and Jean-Hubert Feuille;

(2) was included in the list presented to former president Jean-Bertrand Aristide by former National Security Council Advisor Anthony Lake in December 1995, and acted upon by President Rene Preval;

(3) was sought for an interview by the Federal Bureau of Investigation as part of its inquiry into the March 28, 1995, murder of Mireille Durocher Bertin and Eugene Baillergeau, Jr., and was credibly alleged to have ordered, carried out, or materially assisted, in those murders, per a June 28, 1995, letter to the then Minister of Justice of the Government of Haiti, Jean-Joseph Ezume;

(4)(A) was a member of the Haitian High Command during the period 1991–1994, who has been credibly alleged to have planned, ordered, or participated with members of the Haitian Armed Forces in the September 1991 coup against the duly elected Government of Haiti or the subsequent murders of as many as three thousand Haitians during that period; or

(B) is an immediate relative of an individual described in subparagraph (A); or

(5) has been credibly alleged to have been a member of the paramilitary organization known as FRAPH who planned, ordered, or participated in acts of violence against the Haitian people.

(b) **EXEMPTION.**—Subsection (a) shall not apply where the Secretary of State finds, on a case by case basis, that the entry into the United States of the person who would otherwise be excluded under subsection (a) is necessary for medical reasons, or such person has cooperated fully with the investigation of the political murders or acts of violence described in subsection (a). If the Secretary of State exempts such a person, the Secretary shall notify the appropriate congressional committees in writing.

(c) **REPORTING REQUIREMENT ON EXCLUSION OF CERTAIN HAITIAN ALIENS.**—

(1) **PREPARATION OF LIST.**—The United States chief of mission in Haiti shall provide the Secretary of State a list of those who have been credibly alleged to have ordered or carried out the extrajudicial and political killings referred to in paragraph (1) of subsection (a).

(2) **SUBMISSION OF LIST TO CONGRESS.**—Not later than 3 months after the date of enactment of this Act, the Secretary of State shall submit the list provided under paragraph (1) to the appropriate congressional committees.

(3) **LISTS OF VISA DENIALS AND EXCLUSIONS.**—The Secretary of State shall submit to the Committee on Foreign Relations and the Committee on the Judiciary of the Senate and the Committee on International Relations and the Committee on the Judiciary of the House of Representatives a list of aliens denied visas, and the Attorney General shall submit to the appropriate congressional committees a list of aliens

refused entry to the United States, as a result of subsection (a).

(4) **DURATION FOR SUBMISSION OF LISTS.**—The Secretary shall submit the list under paragraph (3) not later than six months after the date of enactment of this Act and not later than March 1 of each year thereafter as long as the Government of Haiti has not completed the investigation of the extrajudicial and political killings and has not prosecuted those implicated for the killings specified in paragraph (1) of subsection (a).

(d) **REPORT ON THE COST OF UNITED STATES ACTIVITIES IN HAITI.**—(1) Not later than January 1, 1998, and every 6 months thereafter, the President shall submit a report to Congress on the situation in Haiti, including—

(A) a listing of the units of the United States Armed Forces or Coast Guard and of the police and military units of other nations participating in operations in and around Haiti;

(B) incidents of the use of force in Haiti involving hostile acts against United States Armed Forces or Coast Guard personnel during the period covered by the report;

(C) the estimated cumulative program costs of all United States activities in Haiti during the period covered by the report, including—

(i) the incremental cost of deployments of United States Armed Forces and Coast Guard personnel training, exercises, mobilization, and preparation activities, including the United States contribution to the training and transportation of police and military units of other nations of any multilateral force involved in activities in Haiti;

(ii) the costs of all other activities relating to United States policy toward Haiti, including humanitarian assistance, reconstruction assistance, assistance under part I of the Foreign Assistance Act of 1961, and other financial assistance, and all other costs to the United States Government; and

(D) a detailed accounting of the source of funds obligated or expended to meet the costs described in paragraph (3), including—

(i) in the case of amounts expended out of funds available to the Department of Defense budget, by military service or defense agency, line item, and program; and

(ii) in the case of amounts expended out of funds available to departments and agencies other than the Department of Defense, by department or agency and program.

(2) **DEFINITION.**—In this section, the term “period covered by the report” means the 6-month period prior to the date the report is required to be submitted, except that, in the case of the initial report, the term means the period since the date of enactment of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999.

**CHAPTER 3—REFUGEES AND MIGRATION**

**Subchapter A—Authorization of Appropriations**

**SEC. 2231. MIGRATION AND REFUGEE ASSISTANCE.**

(a) **MIGRATION AND REFUGEE ASSISTANCE.**—

(1) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated for “Migration and Refugee Assistance” for authorized activities, \$650,000,000 for the fiscal year 1998 and \$704,500,000 for the fiscal year 1999.

(2) **LIMITATIONS.**—

(A) **LIMITATION REGARDING TIBETAN REFUGEES IN INDIA AND NEPAL.**—Of the amounts authorized to be appropriated in paragraph (1), \$1,000,000 for the fiscal year 1998 and \$1,000,000 for the fiscal year 1999 are authorized to be available only for humanitarian assistance, including food, medicine, clothing, and medical and vocational training, to Tibetan refugees in India and Nepal who have fled Chinese-occupied Tibet.

(B) REFUGEES RESETTLING IN ISRAEL.—Of the amounts authorized to be appropriated in paragraph (1), \$80,000,000 for the fiscal year 1998 and \$80,000,000 for the fiscal year 1999 are authorized to be available for assistance for refugees resettling in Israel from other countries.

(C) HUMANITARIAN ASSISTANCE FOR DISPLACED BURMESE.—Of the amounts authorized to be appropriated in paragraph (1), \$1,500,000 for the fiscal year 1998 and \$1,500,000 for the fiscal year 1999 for humanitarian assistance are authorized to be available, including food, medicine, clothing, and medical and vocational training, to persons displaced as a result of civil conflict in Burma, including persons still within Burma.

(b) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to this section are authorized to remain available until expended.

#### Subchapter B—Authorities

#### SEC. 2241. UNITED STATES POLICY REGARDING THE INVOLUNTARY RETURN OF REFUGEES.

(a) IN GENERAL.—None of the funds made available by this subdivision shall be available to effect the involuntary return by the United States of any person to a country in which the person has a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion, except on grounds recognized as precluding protection as a refugee under the United Nations Convention Relating to the Status of Refugees of July 28, 1951, and the Protocol Relating to the Status of Refugees of January 31, 1967, subject to the reservations contained in the United States Senate Resolution of Ratification.

(b) MIGRATION AND REFUGEE ASSISTANCE.—None of the funds made available by section 2231 of this division or by section 2(c) of the Migration and Refugee Assistance Act of 1962 (22 U.S.C. 2601(c)) shall be available to effect the involuntary return of any person to any country unless the Secretary of State first notifies the appropriate congressional committees, except that in the case of an emergency involving a threat to human life the Secretary of State shall notify the appropriate congressional committees as soon as practicable.

(c) INVOLUNTARY RETURN DEFINED.—As used in this section, the term "to effect the involuntary return" means to require, by means of physical force or circumstances amounting to a threat thereof, a person to return to a country against the person's will, regardless of whether the person is physically present in the United States and regardless of whether the United States acts directly or through an agent.

#### SEC. 2242. UNITED STATES POLICY WITH RESPECT TO THE INVOLUNTARY RETURN OF PERSONS IN DANGER OF SUBJECTION TO TORTURE.

(a) POLICY.—It shall be the policy of the United States not to expel, extradite, or otherwise effect the involuntary return of any person to a country in which there are substantial grounds for believing the person would be in danger of being subjected to torture, regardless of whether the person is physically present in the United States.

(b) REGULATIONS.—Not later than 120 days after the date of enactment of this Act, the heads of the appropriate agencies shall prescribe regulations to implement the obligations of the United States under Article 3 of the United Nations Convention Against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment, subject to any reservations, understandings, declarations, and provisos contained in the United States Senate resolution of ratification of the Convention.

(c) EXCLUSION OF CERTAIN ALIENS.—To the maximum extent consistent with the obligations of the United States under the Convention, sub-

ject to any reservations, understandings, declarations, and provisos contained in the United States Senate resolution of ratification of the Convention, the regulations described in subsection (b) shall exclude from the protection of such regulations aliens described in section 241(b)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1231(b)(3)(B)).

(d) REVIEW AND CONSTRUCTION.—Notwithstanding any other provision of law, and except as provided in the regulations described in subsection (b), no court shall have jurisdiction to review the regulations adopted to implement this section, and nothing in this section shall be construed as providing any court jurisdiction to consider or review claims raised under the Convention or this section, or any other determination made with respect to the application of the policy set forth in subsection (a), except as part of the review of a final order of removal pursuant to section 242 of the Immigration and Nationality Act (8 U.S.C. 1252).

(e) AUTHORITY TO DETAIN.—Nothing in this section shall be construed as limiting the authority of the Attorney General to detain any person under any provision of law, including, but not limited to, any provision of the Immigration and Nationality Act.

(f) DEFINITIONS.—

(1) CONVENTION DEFINED.—In this section, the term "Convention" means the United Nations Convention Against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment, done at New York on December 10, 1984.

(2) SAME TERMS AS IN THE CONVENTION.—Except as otherwise provided, the terms used in this section have the meanings given those terms in the Convention, subject to any reservations, understandings, declarations, and provisos contained in the United States Senate resolution of ratification of the Convention.

#### SEC. 2243. REPROGRAMMING OF MIGRATION AND REFUGEE ASSISTANCE FUNDS.

Section 34 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2706) is amended—

(1) in subsection (a)—

(A) by striking "Foreign Affairs" and inserting "International Relations and the Committee on Appropriations"; and

(B) by inserting "and the Committee on Appropriations" after "Foreign Relations"; and

(2) by adding at the end the following new subsection:

"(c) The Secretary of State may waive the notification requirement of subsection (a), if the Secretary determines that failure to do so would pose a substantial risk to human health or welfare. In the case of any waiver under this subsection, notification to the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on International Relations and the Committee on Appropriations of the House of Representatives shall be provided as soon as practicable, but not later than 3 days after taking the action to which the notification requirement was applicable, and shall contain an explanation of the emergency circumstances."

#### SEC. 2244. ELIGIBILITY FOR REFUGEE STATUS.

Section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (Public Law 104-208; 110 Stat. 3009-171) is amended—

(1) in subsection (a)—

(A) by striking "For purposes" and inserting "Notwithstanding any other provision of law, for purposes"; and

(B) by striking "fiscal year 1997" and inserting "fiscal years 1997 and 1998"; and

(2) by amending subsection (b) to read as follows:

"(b) ALIENS COVERED.—

"(1) IN GENERAL.—An alien described in this subsection is an alien who—

"(A) is the son or daughter of a qualified national;

"(B) is 21 years of age or older; and

"(C) was unmarried as of the date of acceptance of the alien's parent for resettlement under the Orderly Departure Program.

"(2) QUALIFIED NATIONAL.—For purposes of paragraph (1), the term 'qualified national' means a national of Vietnam who—

"(A)(i) was formerly interned in a reeducation camp in Vietnam by the Government of the Socialist Republic of Vietnam; or

"(ii) is the widow or widower of an individual described in clause (i); and

"(B)(i) qualified for refugee processing under the reeducation camp internees subprogram of the Orderly Departure Program; and

"(ii) on or after April 1, 1995, is or has been accepted—

"(I) for resettlement as a refugee; or

"(II) for admission as an immigrant under the Orderly Departure Program."

#### SEC. 2245. REPORTS TO CONGRESS CONCERNING CUBAN EMIGRATION POLICIES.

Beginning not later than 6 months after the date of enactment of this Act, and every 6 months thereafter, the Secretary of State shall supplement the monthly report to Congress entitled "Update on Monitoring of Cuban Migrant Returnees" with additional information concerning the methods employed by the Government of Cuba to enforce the United States-Cuba agreement of September 1994 and the treatment by the Government of Cuba of persons who have returned to Cuba pursuant to the United States-Cuba agreement of May 1995.

#### TITLE XXIII—ORGANIZATION OF THE DEPARTMENT OF STATE; DEPARTMENT OF STATE PERSONNEL; THE FOREIGN SERVICE

##### CHAPTER 1—ORGANIZATION OF THE DEPARTMENT OF STATE

#### SEC. 2301. COORDINATOR FOR COUNTERTERRORISM.

(a) ESTABLISHMENT.—Section 1 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a) is amended by adding at the end the following new subsection:

"(f) COORDINATOR FOR COUNTERTERRORISM.—

"(1) IN GENERAL.—There is within the office of the Secretary of State a Coordinator for Counterterrorism (in this paragraph referred to as the "Coordinator") who shall be appointed by the President, by and with the advice and consent of the Senate.

"(2) DUTIES.—

"(A) IN GENERAL.—The Coordinator shall perform such duties and exercise such powers as the Secretary of State shall prescribe.

"(B) DUTIES DESCRIBED.—The principal duty of the Coordinator shall be the overall supervision (including policy oversight of resources) of international counterterrorism activities. The Coordinator shall be the principal adviser to the Secretary of State on international counterterrorism matters. The Coordinator shall be the principal counterterrorism official within the senior management of the Department of State and shall report directly to the Secretary of State.

"(3) RANK AND STATUS OF AMBASSADOR.—The Coordinator shall have the rank and status of Ambassador at Large."

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 161 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236) is amended by striking subsection (e).

#### SEC. 2302. ELIMINATION OF DEPUTY ASSISTANT SECRETARY OF STATE FOR BURDENSARING.

Section 161 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22

U.S.C. 2651a note) is amended by striking subsection (f).

**SEC. 2303. PERSONNEL MANAGEMENT.**

Section 1 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a), as amended by this division, is further amended by adding at the end the following new subsection:

"(g) **QUALIFICATIONS OF OFFICER HAVING PRIMARY RESPONSIBILITY FOR PERSONNEL MANAGEMENT.**—The officer of the Department of State with primary responsibility for assisting the Secretary of State with respect to matters relating to personnel in the Department of State, or that officer's principal deputy, shall have substantial professional qualifications in the field of human resource policy and management."

**SEC. 2304. DIPLOMATIC SECURITY.**

Section 1 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a), as amended by this division, is further amended by adding at the end the following new subsection:

"(h) **QUALIFICATIONS OF OFFICER HAVING PRIMARY RESPONSIBILITY FOR DIPLOMATIC SECURITY.**—The officer of the Department of State with primary responsibility for assisting the Secretary of State with respect to diplomatic security, or that officer's principal deputy, shall have substantial professional qualifications in the fields of (1) management, and (2) Federal law enforcement, intelligence, or security."

**SEC. 2305. NUMBER OF SENIOR OFFICIAL POSITIONS AUTHORIZED FOR THE DEPARTMENT OF STATE.**

(a) **UNDER SECRETARIES.**—

(1) **IN GENERAL.**—Section 1(b) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a(b)) is amended by striking "5" and inserting "6".

(2) **CONFORMING AMENDMENT TO TITLE 5.**—Section 5314 of title 5, United States Code, is amended by striking "Under Secretaries of State (5)" and inserting "Under Secretaries of State (6)".

(b) **ASSISTANT SECRETARIES.**—

(1) **IN GENERAL.**—Section 1(c)(1) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a(c)(1)) is amended by striking "20" and inserting "24".

(2) **CONFORMING AMENDMENT TO TITLE 5.**—Section 5315 of title 5, United States Code, is amended by striking "Assistant Secretaries of State (20)" and inserting "Assistant Secretaries of State (24)".

(c) **DEPUTY ASSISTANT SECRETARIES.**—Section 1 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a), as amended by this division, is further amended—

(1) by striking subsection (d); and

(2) by redesignating subsections (e), (f), (g), and (h) as subsections (d), (e), (f), and (g), respectively.

**SEC. 2306. NOMINATION OF UNDER SECRETARIES AND ASSISTANT SECRETARIES OF STATE.**

(a) **UNDER SECRETARIES OF STATE.**—Section 1(b) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a(c)), as amended by this division, is further amended by adding at the end the following new paragraph:

"(4) **NOMINATION OF UNDER SECRETARIES.**—Whenever the President submits to the Senate a nomination of an individual for appointment to a position in the Department of State that is described in paragraph (1), the President shall designate the particular Under Secretary position in the Department of State that the individual shall have."

(b) **ASSISTANT SECRETARIES OF STATE.**—Section 1(c) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a(c)), as amended by this division, is further amended by adding at the end the following new paragraph:

"(3) **NOMINATION OF ASSISTANT SECRETARIES.**—Whenever the President submits to the

Senate a nomination of an individual for appointment to a position in the Department of State that is described in paragraph (1), the President shall designate the regional or functional bureau or bureaus of the Department of State with respect to which the individual shall have responsibility."

**CHAPTER 2—PERSONNEL OF THE DEPARTMENT OF STATE; THE FOREIGN SERVICE**

**SEC. 2311. FOREIGN SERVICE REFORM.**

(a) **PERFORMANCE PAY.**—Section 405 of the Foreign Service Act of 1980 (22 U.S.C. 3965) is amended—

(1) in subsection (a), by striking "Members" and inserting "Subject to subsection (e), members"; and

(2) by adding at the end the following new subsection:

"(e) Notwithstanding any other provision of law, the Secretary of State may provide for recognition of the meritorious or distinguished service of any member of the Foreign Service described in subsection (a) (including any member of the Senior Foreign Service) by means other than an award of performance pay in lieu of making such an award under this section."

(b) **EXPEDITED SEPARATION OUT.**—

(1) **SEPARATION OF LOWEST RANKED FOREIGN SERVICE MEMBERS.**—Not later than 90 days after the date of enactment of this Act, the Secretary of State shall develop and implement procedures to identify, and recommend for separation, any member of the Foreign Service ranked by promotion boards of the Department of State in the bottom 5 percent of his or her class for 2 or more of the 5 years preceding the date of enactment of this Act (in this subsection referred to as the "years of lowest ranking") if the rating official for such member was not the same individual for any two of the years of lowest ranking.

(2) **SPECIAL INTERNAL REVIEWS.**—In any case where the member was evaluated by the same rating official in any 2 of the years of lowest ranking, an internal review of the member's file shall be conducted to determine whether the member should be considered for action leading to separation.

(3) **PROCEDURES.**—The Secretary of State shall develop procedures for the internal reviews required under paragraph (2).

**SEC. 2312. RETIREMENT BENEFITS FOR INVOLUNTARY SEPARATION.**

(a) **BENEFITS.**—Section 609 of the Foreign Service Act of 1980 (22 U.S.C. 4009) is amended—

(1) in subsection (a)(2)(A), by inserting "or any other applicable provision of chapter 84 of title 5, United States Code," after "section 811";

(2) in subsection (a), by inserting "or section 855, as appropriate" after "section 806"; and

(3) in subsection (b)(2)—

(A) by striking "(2)" and inserting "(2)(A) for those participants in the Foreign Service Retirement and Disability System,"; and

(B) by inserting before the period at the end "and (B) for those participants in the Foreign Service Pension System, benefits as provided in section 851"; and

(4) in subsection (b) in the matter following paragraph (2), by inserting "(for participants in the Foreign Service Retirement and Disability System) or age 62 (for participants in the Foreign Service Pension System)" after "age 60".

(b) **ENTITLEMENT TO ANNUITY.**—Section 855(b) of the Foreign Service Act of 1980 (22 U.S.C. 4071(d)) is amended—

(1) in paragraph (1)—

(A) by inserting "611," after "608,";

(B) by inserting "or for participants in the Foreign Service Pension System," after "for participants in the Foreign Service Retirement and Disability System"; and

(C) by striking "Service shall" and inserting "Service, shall"; and

(2) in paragraph (3), by striking "or 610" and inserting "610, or 611".

(c) **EFFECTIVE DATES.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) **EXCEPTIONS.**—The amendments made by paragraphs (2) and (3) of subsection (a) and paragraphs (1)(A) and (2) of subsection (b) shall apply with respect to any actions taken under section 611 of the Foreign Service Act of 1980 on or after January 1, 1996.

**SEC. 2313. AUTHORITY OF SECRETARY TO SEPARATE CONVICTED FELONS FROM THE FOREIGN SERVICE.**

Section 610(a)(2) of the Foreign Service Act of 1980 (22 U.S.C. 4010(a)(2)) is amended in the first sentence by striking "A member" and inserting "Except in the case of an individual who has been convicted of a crime for which a sentence of imprisonment of more than 1 year may be imposed, a member".

**SEC. 2314. CAREER COUNSELING.**

(a) **IN GENERAL.**—Section 706(a) of the Foreign Service Act of 1980 (22 U.S.C. 4026(a)) is amended by adding at the end the following new sentence: "Career counseling and related services provided pursuant to this Act shall not be construed to permit an assignment that consists primarily of paid time to conduct a job search and without other substantive duties for more than one month."

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall be effective 180 days after the date of the enactment of this Act.

**SEC. 2315. LIMITATIONS ON MANAGEMENT ASSIGNMENTS.**

Section 1017(e)(2) of the Foreign Service Act of 1980 (22 U.S.C. 4117(e)(2)) is amended to read as follows:

"(2) For the purposes of paragraph (1)(A)(ii) and paragraph (1)(B), the term "management official" does not include—

"(A) any chief of mission;

"(B) any principal officer or deputy principal officer;

"(C) any administrative or personnel officer abroad; or

"(D) any individual described in section 1002(12) (B), (C), or (D) who is not involved in the administration of this chapter or in the formulation of the personnel policies and programs of the Department."

**SEC. 2316. AVAILABILITY PAY FOR CERTAIN CRIMINAL INVESTIGATORS WITHIN THE DIPLOMATIC SECURITY SERVICE.**

(a) **IN GENERAL.**—Section 5545a of title 5, United States Code, is amended by adding at the end the following:

"(k)(1) For purposes of this section, the term "criminal investigator" includes a special agent occupying a position under title II of Public Law 99-399 if such special agent—

"(A) meets the definition of such term under paragraph (2) of subsection (a) (applied disregarding the parenthetical matter before subparagraph (A) thereof); and

"(B) such special agent satisfies the requirements of subsection (d) without taking into account any hours described in paragraph (2)(B) thereof.

"(2) In applying subsection (h) with respect to a special agent under this subsection—

"(A) any reference in such subsection to "basic pay" shall be considered to include amounts designated as "salary";

"(B) paragraph (2)(A) of such subsection shall be considered to include (in addition to the provisions of law specified therein) sections 609(b)(1), 805, 806, and 856 of the Foreign Service Act of 1980; and

"(C) paragraph (2)(B) of such subsection shall be applied by substituting for "Office of Personnel Management" the following: "Office of

Personnel Management or the Secretary of State (to the extent that matters exclusively within the jurisdiction of the Secretary are concerned)."

(b) IMPLEMENTATION.—Not later than the date on which the amendments made by this section take effect, each special agent of the Diplomatic Security Service who satisfies the requirements of subsection (k)(1) of section 5545a of title 5, United States Code, as amended by this section, and the appropriate supervisory officer, to be designated by the Secretary of State, shall make an initial certification to the Secretary of State that the special agent is expected to meet the requirements of subsection (d) of such section 5545a. The Secretary of State may prescribe procedures necessary to administer this subsection.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—(1) Paragraph (2) of section 5545a(a) of title 5, United States Code, is amended (in the matter before subparagraph (A)) by striking "Public Law 99-399)" and inserting "Public Law 99-399, subject to subsection (k))".

(2) Section 5542(e) of such title is amended by striking "title 18, United States Code," and inserting "title 18 or section 37(a)(3) of the State Department Basic Authorities Act of 1956,".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first applicable pay period—

(1) which begins on or after the 90th day following the date of the enactment of this Act; and

(2) on which date all regulations necessary to carry out such amendments are (in the judgment of the Director of the Office of Personnel Management and the Secretary of State) in effect.

#### SEC. 2317. NONOVERTIME DIFFERENTIAL PAY.

Title 5 of the United States Code is amended—

(1) in section 5544(a), by inserting after the fourth sentence the following new sentence: "For employees serving outside the United States in areas where Sunday is a routine workday and another day of the week is officially recognized as the day of rest and worship, the Secretary of State may designate the officially recognized day of rest and worship as the day with respect to which the preceding sentence shall apply instead of Sunday."; and

(2) at the end of section 5546(a), by adding the following new sentence: "For employees serving outside the United States in areas where Sunday is a routine workday and another day of the week is officially recognized as the day of rest and worship, the Secretary of State may designate the officially recognized day of rest and worship as the day with respect to which the preceding sentence shall apply instead of Sunday.".

#### SEC. 2318. REPORT CONCERNING MINORITIES AND THE FOREIGN SERVICE.

The Secretary of State shall during each of calendar years 1998 and 1999 submit a report to the Congress concerning minorities and the Foreign Service officer corps. In addition to such other information as is relevant to this issue, the report shall include the following data for the last preceding examination and promotion cycles for which such information is available (reported in terms of real numbers and percentages and not as ratios):

(1) The numbers and percentages of all minorities taking the written Foreign Service examination.

(2) The numbers and percentages of all minorities successfully completing and passing the written Foreign Service examination.

(3) The numbers and percentages of all minorities successfully completing and passing the oral Foreign Service examination.

(4) The numbers and percentages of all minorities entering the junior officers class of the Foreign Service.

(5) The numbers and percentages of all minority Foreign Service officers at each grade.

(6) The numbers of and percentages of minorities promoted at each grade of the Foreign Service officer corps.

### TITLE XXIV—UNITED STATES INFORMATIONAL, EDUCATIONAL, AND CULTURAL PROGRAMS

#### CHAPTER 1—AUTHORIZATION OF APPROPRIATIONS

##### SEC. 2401. INTERNATIONAL INFORMATION ACTIVITIES AND EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS.

The following amounts are authorized to be appropriated to carry out international information activities and educational and cultural exchange programs under the United States Information and Educational Exchange Act of 1948, the Mutual Educational and Cultural Exchange Act of 1961, Reorganization Plan Number 2 of 1977, the United States International Broadcasting Act of 1994, the Radio Broadcasting to Cuba Act, the Television Broadcasting to Cuba Act, the Board for International Broadcasting Act, the North/South Center Act of 1991, and the National Endowment for Democracy Act, and to carry out other authorities in law consistent with such purposes:

(1) INTERNATIONAL INFORMATION PROGRAM.—For "International Information Program", \$431,000,000 for the fiscal year 1998.

(2) TECHNOLOGY FUND.—For the "Technology Fund" for the United States Information Agency, \$6,350,000 for the fiscal year 1998.

(3) EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS.—

(A) FULBRIGHT ACADEMIC EXCHANGE PROGRAMS.—

(i) FULBRIGHT ACADEMIC EXCHANGE PROGRAMS.—There are authorized to be appropriated for the "Fulbright Academic Exchange Programs" (other than programs described in subparagraph (B)), \$99,236,000 for the fiscal year 1998.

(ii) VIETNAM FULBRIGHT ACADEMIC EXCHANGE PROGRAMS.—Of the amounts authorized to be appropriated under clause (i), \$5,000,000 for the fiscal year 1998 is authorized to be available for the Vietnam scholarship program established by section 229 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138).

(B) OTHER EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS.—

(i) IN GENERAL.—There are authorized to be appropriated for other educational and cultural exchange programs authorized by law, \$103,495,000 for the fiscal year 1998.

(ii) SOUTH PACIFIC EXCHANGES.—Of the amounts authorized to be appropriated under clause (i), \$500,000 for the fiscal year 1998 is authorized to be available for "South Pacific Exchanges".

(iii) EAST TIMORESE SCHOLARSHIPS.—Of the amounts authorized to be appropriated under clause (i), \$500,000 for the fiscal year 1998 is authorized to be available for "East Timorese Scholarships".

(iv) TIBETAN EXCHANGES.—Of the amounts authorized to be appropriated under clause (i), \$500,000 for the fiscal year 1998 is authorized to be available for "Educational and Cultural Exchanges with Tibet" under section 236 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236).

(4) INTERNATIONAL BROADCASTING ACTIVITIES.—

(A) AUTHORIZATION OF APPROPRIATIONS.—For "International Broadcasting Operations", \$364,415,000 for the fiscal year 1998.

(B) ALLOCATION.—Of the amounts authorized to be appropriated under subparagraph (A), the Director of the United States Information Agency and the Broadcasting Board of Governors shall seek to ensure that the amounts made available for broadcasting to nations whose peo-

ple do not fully enjoy freedom of expression do not decline in proportion to the amounts made available for broadcasting to other nations.

(5) RADIO CONSTRUCTION.—For "Radio Construction", \$40,000,000 for the fiscal year 1998.

(6) RADIO FREE ASIA.—For "Radio Free Asia", \$22,000,000 for the fiscal year 1998 and an additional \$8,000,000 in fiscal year 1998 for one-time capital costs.

(7) BROADCASTING TO CUBA.—For "Broadcasting to Cuba", \$22,095,000 for the fiscal year 1998.

(8) CENTER FOR CULTURAL AND TECHNICAL INTERCHANGE BETWEEN EAST AND WEST.—For the "Center for Cultural and Technical Interchange between East and West", \$12,000,000 for the fiscal year 1998.

(9) NATIONAL ENDOWMENT FOR DEMOCRACY.—For the "National Endowment for Democracy", \$30,000,000 for the fiscal year 1998.

(10) CENTER FOR CULTURAL AND TECHNICAL INTERCHANGE BETWEEN NORTH AND SOUTH.—For "Center for Cultural and Technical Interchange between North and South" \$1,500,000 for the fiscal year 1998.

#### CHAPTER 2—AUTHORITIES AND ACTIVITIES

##### SEC. 2411. RETENTION OF INTEREST.

Notwithstanding any other provision of law, with the approval of the National Endowment for Democracy, grant funds made available by the National Endowment for Democracy may be deposited in interest-bearing accounts pending disbursement, and any interest which accrues may be retained by the grantee without returning such interest to the Treasury of the United States and interest earned may be obligated and expended for the purposes for which the grant was made without further appropriation.

##### SEC. 2412. USE OF SELECTED PROGRAM FEES.

Section 810 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1475e) is amended to read as follows:

###### "USE OF ENGLISH-TEACHING PROGRAM FEES

"SEC. 810. (a) IN GENERAL.—Notwithstanding section 3302 of title 31, United States Code, or any other law or limitation of authority, fees and receipts described in subsection (b) are authorized to be credited each fiscal year for authorized purposes to the appropriate appropriations of the United States Information Agency to such extent as may be provided in advance in appropriations acts.

"(b) FEES AND RECEIPTS DESCRIBED.—The fees and receipts described in this subsection are fees and payments received by or for the use of the United States Information Agency from or in connection with—

"(1) English-teaching and library services,

"(2) educational advising and counseling,

"(3) Exchange Visitor Program Services,

"(4) advertising and business ventures of the Voice of America and the International Broadcasting Bureau,

"(5) cooperating international organizations, and

"(6) Agency-produced publications,

"(7) an amount not to exceed \$100,000 of the payments from motion picture and television programs produced or conducted by or on behalf of the Agency under the authority of this Act or the Mutual Education and Cultural Exchange Act of 1961.".

##### SEC. 2413. MUSKIE FELLOWSHIP PROGRAM.

(a) GUIDELINES.—Section 227(c)(5) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (22 U.S.C. 2452 note) is amended by inserting "journalism and communications, education administration, public policy, library and information science," after "business administration," each of the two places it appears.

(b) REDESIGNATION OF SOVIET UNION.—Section 227 of the Foreign Relations Authorization Act,

Fiscal Years 1992 and 1993 (22 U.S.C. 2452 note) is amended—

(1) in subsections (a), (b), and (c)(5), by striking "Soviet Union" each place it appears and inserting "independent states of the former Soviet Union";

(2) in subsection (c)(11), by striking "Soviet republics" and inserting "independent states of the former Soviet Union"; and

(3) in the section heading, by inserting "INDEPENDENT STATES OF THE FORMER" after "FROM THE".

**SEC. 2414. WORKING GROUP ON UNITED STATES GOVERNMENT-SPONSORED INTERNATIONAL EXCHANGES AND TRAINING.**

Section 112 of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2460) is amended by adding at the end the following new subsection:

"(g) **WORKING GROUP ON UNITED STATES GOVERNMENT SPONSORED INTERNATIONAL EXCHANGES AND TRAINING.**—(1) In order to carry out the purposes of subsection (f) and to improve the coordination, efficiency, and effectiveness of United States Government-sponsored international exchanges and training, there is established within the United States Information Agency a senior-level interagency working group to be known as the Working Group on United States Government-Sponsored International Exchanges and Training (in this section referred to as the 'Working Group').

"(2) For purposes of this subsection, the term 'Government-sponsored international exchanges and training' means the movement of people between countries to promote the sharing of ideas, to develop skills, and to foster mutual understanding and cooperation, financed wholly or in part, directly or indirectly, with United States Government funds.

"(3) The Working Group shall be composed as follows:

"(A) The Associate Director for Educational and Cultural Affairs of the United States Information Agency, who shall act as Chair.

"(B) A senior representative of the Department of State, who shall be designated by the Secretary of State.

"(C) A senior representative of the Department of Defense, who shall be designated by the Secretary of Defense.

"(D) A senior representative of the Department of Education, who shall be designated by the Secretary of Education.

"(E) A senior representative of the Department of Justice, who shall be designated by the Attorney General.

"(F) A senior representative of the Agency for International Development, who shall be designated by the Administrator of the Agency.

"(G) Senior representatives of such other departments and agencies as the Chair determines to be appropriate.

"(4) Representatives of the National Security Adviser and the Director of the Office of Management and Budget may participate in the Working Group at the discretion of the Adviser and the Director, respectively.

"(5) The Working Group shall be supported by an interagency staff office established in the Bureau of Educational and Cultural Affairs of the United States Information Agency.

"(6) The Working Group shall have the following purposes and responsibilities:

"(A) To collect, analyze, and report data provided by all United States Government departments and agencies conducting international exchanges and training programs.

"(B) To promote greater understanding and cooperation among concerned United States Government departments and agencies of common issues and challenges in conducting international exchanges and training programs, including through the establishment of a clearing-

house for information on international exchange and training activities in the governmental and nongovernmental sectors.

"(C) In order to achieve the most efficient and cost-effective use of Federal resources, to identify administrative and programmatic duplication and overlap of activities by the various United States Government departments and agencies involved in Government-sponsored international exchange and training programs, to identify how each Government-sponsored international exchange and training program promotes United States foreign policy, and to report thereon.

"(D)(i) Not later than 1 year after the date of the enactment of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999, the Working Group shall develop a coordinated and cost-effective strategy for all United States Government-sponsored international exchange and training programs, including an action plan with the objective of achieving a minimum of 10 percent cost savings through greater efficiency, the consolidation of programs, or the elimination of duplication, or any combination thereof.

"(ii) Not later than 1 year after the date of enactment of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999, the Working Group shall submit a report to the appropriate congressional committees setting forth the strategy and action plan required by clause (i).

"(iii) Each year thereafter the Working Group shall assess the strategy and plan required by clause (i).

"(E) Not later than 2 years after the date of the enactment of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999, to develop recommendations on common performance measures for all United States Government-sponsored international exchange and training programs, and to issue a report.

"(F) To conduct a survey of private sector international exchange activities and develop strategies for expanding public and private partnerships in, and leveraging private sector support for, United States Government-sponsored international exchange and training activities.

"(G) Not later than 6 months after the date of the enactment of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999, to report on the feasibility and advisability of transferring funds and program management for the ATLAS or the Mandela Fellows programs, or both, in South Africa from the Agency for International Development to the United States Information Agency. The report shall include an assessment of the capabilities of the South African Fulbright Commission to manage such programs and the cost effects of consolidating such programs under one entity.

"(7) All reports prepared by the Working Group shall be submitted to the President, through the Director of the United States Information Agency.

"(8) The Working Group shall meet at least on a quarterly basis.

"(9) All decisions of the Working Group shall be by majority vote of the members present and voting.

"(10) The members of the Working Group shall serve without additional compensation for their service on the Working Group. Any expenses incurred by a member of the Working Group in connection with service on the Working Group shall be compensated by that member's department or agency.

"(11) With respect to any report issued under paragraph (6), a member may submit dissenting views to be submitted as part of the report of the Working Group."

**SEC. 2415. EDUCATIONAL AND CULTURAL EXCHANGES AND SCHOLARSHIPS FOR TIBETANS AND BURMESE.**

(a) **IN GENERAL.**—Section 103(b)(1) of the Human Rights, Refugee, and Other Foreign Re-

lations Provisions Act of 1996 (Public Law 104-319; 22 U.S.C. 2151 note) is amended—

(1) by striking "for fiscal year 1997" and inserting "for each of the fiscal years 1998 and 1999"; and

(2) by inserting after "who are outside Tibet" the following: "(if practicable, including individuals active in the preservation of Tibet's unique culture, religion, and language)".

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall take effect on October 1, 1997.

**SEC. 2416. UNITED STATES-JAPAN COMMISSION.**

(a) **RELIEF FROM RESTRICTION OF INTERCHANGEABILITY OF FUNDS.**—

(1) **ELIMINATION OF RESTRICTION.**—Section 6(4) of the Japan-United States Friendship Act (22 U.S.C. 2905(4)) is amended by striking "needed, except" and all that follows through "United States" and inserting "needed".

(2) **AUTHORIZED INVESTMENTS.**—The second sentence of section 7(b) of the Japan-United States Friendship Act (22 U.S.C. 2906(b)) is amended to read as follows: "Such investment may be made only in interest-bearing obligations of the United States, in obligations guaranteed as to both principal and interest by the United States, in interest-bearing obligations of Japan, or in obligations guaranteed as to both principal and interest by Japan."

(b) **REDESIGNATION OF COMMISSION.**—

(1) **REDESIGNATION.**—Effective on the date of enactment of this Act, the Japan-United States Friendship Commission shall be redesignated as the "United States-Japan Commission". Any reference in any provision of law, Executive order, regulation, delegation of authority, or other document to the Japan-United States Friendship Commission shall be considered to be a reference to the United States-Japan Commission.

(2) **CONFORMING AMENDMENT.**—The heading of section 4 of the Japan-United States Friendship Act (22 U.S.C. 2903) is amended to read as follows:

"UNITED STATES-JAPAN COMMISSION".

(3) **CONFORMING AMENDMENT.**—The Japan-United States Friendship Act is amended by striking "Japan-United States Friendship Commission" each place such term appears and inserting "United States-Japan Commission".

(c) **REDESIGNATION OF TRUST FUND.**—

(1) **REDESIGNATION.**—Effective on the date of enactment of this Act, the Japan-United States Friendship Trust Fund shall be redesignated as the "United States-Japan Trust Fund". Any reference in any provision of law, Executive order, regulation, delegation of authority, or other document to the Japan-United States Friendship Trust Fund shall be considered to be a reference to the United States-Japan Trust Fund.

(2) **CONFORMING AMENDMENT.**—Section 3(a) of the Japan-United States Friendship Act (22 U.S.C. 2902(a)) is amended by striking "Japan-United States Friendship Trust Fund" and inserting "United States-Japan Trust Fund".

**SEC. 2417. SURROGATE BROADCASTING STUDY.**

Not later than 6 months after the date of enactment of this Act, the Broadcasting Board of Governors, acting through the International Broadcasting Bureau, should conduct and complete a study of the appropriateness, feasibility, and projected costs of providing surrogate broadcasting service to Africa and transmit the results of the study to the appropriate congressional committees.

**SEC. 2418. RADIO BROADCASTING TO IRAN IN THE FARSI LANGUAGE.**

(a) **RADIO FREE IRAN.**—Not more than \$4,000,000 of the funds made available under section 2401(4) of this division for the fiscal year 1998 for grants to RFE/RL, Incorporated, shall

be available only for surrogate radio broadcasting by RFE/RL, Incorporated, to the Iranian people in the Farsi language, such broadcasts to be designated as "Radio Free Iran".

(b) **REPORT TO CONGRESS.**—Not later than 60 days after the date of enactment of this Act, the Broadcasting Board of Governors of the United States Information Agency shall submit a detailed report to Congress describing the costs, implementation, and plans for creation of the surrogate broadcasting service described in subsection (a).

(c) **AVAILABILITY OF FUNDS.**—None of the funds made available under subsection (a) may be made available until submission of the report required under subsection (b).

**SEC. 2419. AUTHORITY TO ADMINISTER SUMMER TRAVEL AND WORK PROGRAMS.**

The Director of the United States Information Agency is authorized to administer summer travel and work programs without regard to preplacement requirements.

**SEC. 2420. PERMANENT ADMINISTRATIVE AUTHORITIES REGARDING APPROPRIATIONS.**

Section 701(f) of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1476(f)) is amended by striking paragraph (4).

**SEC. 2421. VOICE OF AMERICA BROADCASTS.**

(a) **IN GENERAL.**—The Voice of America shall devote programming each day to broadcasting information on the individual States of the United States. The broadcasts shall include—

(1) information on the products, tourism, and cultural and educational facilities of each State;

(2) information on the potential for trade with each State; and

(3) discussions with State officials with respect to the matters described in paragraphs (1) and (2).

(b) **REPORT.**—Not later than July 1, 1998, the Broadcasting Board of Governors of the United States Information Agency shall submit a report to Congress detailing the actions that have been taken to carry out subsection (a).

(c) **STATE DEFINED.**—In this section, the term "State" means any of the several States of the United States, the District of Columbia, or any commonwealth or territory of the United States.

**TITLE XXV—INTERNATIONAL ORGANIZATIONS OTHER THAN UNITED NATIONS**

**SEC. 2501. INTERNATIONAL CONFERENCES AND CONTINGENCIES.**

There are authorized to be appropriated for "International Conferences and Contingencies", \$12,000,000 for the fiscal year 1998 for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to international conferences and contingencies and to carry out other authorities in law consistent with such purposes.

**SEC. 2502. RESTRICTION RELATING TO UNITED STATES ACCESSION TO ANY NEW INTERNATIONAL CRIMINAL TRIBUNAL.**

(a) **PROHIBITION.**—The United States shall not become a party to any new international criminal tribunal, nor give legal effect to the jurisdiction of such a tribunal over any matter described in subsection (b), except pursuant to—

(1) a treaty made under Article II, section 2, clause 2 of the Constitution of the United States on or after the date of enactment of this Act; or

(2) any statute enacted by Congress on or after the date of enactment of this Act.

(b) **JURISDICTION DESCRIBED.**—The jurisdiction described in this subsection is jurisdiction over—

(1) persons found, property located, or acts or omissions committed, within the territory of the United States; or

(2) nationals of the United States, wherever found.

(c) **STATUTORY CONSTRUCTION.**—Nothing in this section precludes sharing information, expertise, or other forms of assistance with such tribunal.

(d) **DEFINITION.**—The term "new international criminal tribunal" means any permanent international criminal tribunal established on or after the date of enactment of this Act and does not include—

(1) the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law in the Territory of the Former Yugoslavia, as established by United Nations Security Council Resolution 827 of May 25, 1993; or

(2) the International Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighboring States, as established by United Nations Security Council Resolution 955 of November 8, 1994.

**SEC. 2503. UNITED STATES MEMBERSHIP IN THE BUREAU OF THE INTERPARLIAMENTARY UNION.**

(a) **INTERPARLIAMENTARY UNION LIMITATION.**—Unless the Secretary of State certifies to Congress that the United States will be assessed not more than \$500,000 for its annual contribution to the Bureau of the Interparliamentary Union during fiscal year 1998, then effective October 1, 1998, the authority for further participation by the United States in the Bureau shall terminate in accordance with subsection (d).

(b) **ELIMINATION OF AUTHORITY TO PAY EXPENSES OF THE AMERICAN GROUP.**—Section 1 of the Act entitled "An Act to authorize participation by the United States in the Interparliamentary Union", approved June 28, 1935 (22 U.S.C. 276) is amended—

(1) in the first sentence—

(A) by striking "fiscal year" and all that follows through "(1) for" and inserting "fiscal year for";

(B) by striking "and"; and

(C) by striking paragraph (2); and

(2) by striking the second sentence.

(c) **ELIMINATION OF PERMANENT APPROPRIATION.**—Section 303 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1988 (as contained in section 101(a) of the Continuing Appropriations Act, 1988 (Public Law 100-202; 22 U.S.C. 276 note)) is amended—

(1) by striking "\$440,000" and inserting "\$350,000"; and

(2) by striking "paragraph (2) of the first section of Public Law 74-170".

(d) **CONDITIONAL TERMINATION OF AUTHORITY.**—Unless Congress receives the certification described in subsection (a) before October 1, 1998, effective on that date the Act entitled "An Act to authorize participation by the United States in the Interparliamentary Union", approved June 28, 1935 (22 U.S.C. 276-276a-4) is repealed.

(e) **TRANSFER OF FUNDS TO THE TREASURY.**—Unobligated balances of appropriations made under section 303 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act 1988 (as contained in section 101(a) of the Continuing Appropriations Act, 1988; Public Law 100-202) that are available as of the day before the date of enactment of this Act shall be transferred on such date to the general fund of the Treasury of the United States.

**SEC. 2504. SERVICE IN INTERNATIONAL ORGANIZATIONS.**

(a) **IN GENERAL.**—Section 3582(b) of title 5, United States Code, is amended by striking all after the first sentence and inserting the fol-

lowing: "On reemployment, an employee entitled to the benefits of subsection (a) is entitled to the rate of basic pay to which the employee would have been entitled had the employee remained in the civil service. On reemployment, the agency shall restore the sick leave account of the employee, by credit or charge, to its status at the time of transfer. The period of separation caused by the employment of the employee with the international organization and the period necessary to effect reemployment are deemed creditable service for all appropriate civil service employment purposes. This subsection does not apply to a congressional employee."

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply with respect to transfers that take effect on or after the date of enactment of this Act.

**SEC. 2505. REPORTS REGARDING FOREIGN TRAVEL.**

(a) **PROHIBITION.**—Except as provided in subsection (e), none of the funds authorized to be appropriated by this division may be used to pay for the expenses of foreign travel by an officer or employee of an Executive branch agency to attend an international conference, or for the routine services that a United States diplomatic mission or consular post provides in support of foreign travel by such an officer or employee to attend an international conference, unless that officer or employee has submitted a preliminary report with respect to that foreign travel in accordance with subsection (b), and has not previously failed to submit a final report with respect to foreign travel to attend an international conference required by subsection (c).

(b) **PRELIMINARY REPORTS.**—A preliminary report referred to in subsection (a) is a report by an officer or employee of an Executive branch agency with respect to proposed foreign travel to attend an international conference, submitted to the Director prior to commencement of the travel, setting forth—

(1) the name and employing agency of the officer or employee;

(2) the name of the official who authorized the travel; and

(3) the purpose and duration of the travel.

(c) **FINAL REPORTS.**—A final report referred to in subsection (a) is a report by an officer or employee of an Executive branch agency with respect to foreign travel to attend an international conference, submitted to the Director not later than 30 days after the conclusion of the travel—

(1) setting forth the actual duration and cost of the travel; and

(2) updating any other information included in the preliminary report.

(d) **REPORTS TO CONGRESS.**—The Director shall submit a report no later than October 1 and April 1 of each year to the Committees on Foreign Relations and Appropriations of the Senate and the Committees on International Relations and Appropriations of the House of Representatives, setting forth with respect to each international conference for which reports described in subsection (c) were required to be submitted to the Director during the preceding six months—

(1) the names and employing agencies of all officers and employees of Executive branch agencies who attended the international conference;

(2) the names of all officials who authorized travel to the international conference, and the total number of officers and employees who were authorized to travel to the conference by each such official; and

(3) the total cost of travel by officers and employees of Executive branch agencies to the international conference.

(e) **EXCEPTIONS.**—This section shall not apply to travel by—

(1) the President or the Vice President; or

(2) any officer or employee who is carrying out an intelligence or intelligence-related activity, who is performing a protective function, or who is engaged in a sensitive diplomatic mission.

(f) DEFINITIONS.—In this section:

(1) DIRECTOR.—The term "Director" means the Director of the Office of International Conferences of the Department of State.

(2) EXECUTIVE BRANCH AGENCY.—The terms "Executive branch agency" and "Executive branch agencies" mean—

(A) an entity or entities, other than the General Accounting Office, defined in section 105 of title 5, United States Code; and

(B) the Executive Office of the President (except as provided in subsection (e)).

(3) INTERNATIONAL CONFERENCE.—The term "international conference" means any meeting held under the auspices of an international organization or foreign government, at which representatives of more than two foreign governments are expected to be in attendance, and to which United States Executive branch agencies will send a total of ten or more representatives.

(g) REPORT.—Not later than 180 days after the date of enactment of this Act, and annually thereafter, the President shall submit to the appropriate congressional committees a report describing—

(1) the total Federal expenditure of all official international travel in each Executive branch agency during the previous fiscal year; and

(2) the total number of individuals in each agency who engaged in such travel.

#### TITLE XXVI—UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY

##### SEC. 2601. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out the purposes of the Arms Control and Disarmament Act \$41,500,000 for the fiscal year 1998.

##### SEC. 2602. STATUTORY CONSTRUCTION.

Section 303 of the Arms Control and Disarmament Act (22 U.S.C. 2573), as redesignated by section 1223 of this division, is amended by adding at the end the following new subsection:

"(c) STATUTORY CONSTRUCTION.—Nothing contained in this chapter shall be construed to authorize any policy or action by any Government agency which would interfere with, restrict, or prohibit the acquisition, possession, or use of firearms by an individual for the lawful purpose of personal defense, sport, recreation, education, or training."

#### TITLE XXVII—EUROPEAN SECURITY ACT OF 1997

##### SEC. 2701. SHORT TITLE.

This title may be cited as the "European Security Act of 1997".

##### SEC. 2702. STATEMENT OF POLICY.

(a) POLICY WITH RESPECT TO NATO ENLARGEMENT.—Congress urges the President to outline a clear and complete strategic rationale for the enlargement of the North Atlantic Treaty Organization (NATO), and declares that—

(1) Poland, Hungary, and the Czech Republic should not be the last emerging democracies in Central and Eastern Europe invited to join NATO;

(2) the United States should ensure that NATO continues a process whereby all other emerging democracies in Central and Eastern Europe that wish to join NATO will be considered for membership in NATO as soon as they meet the criteria for such membership;

(3) the United States should ensure that no limitations are placed on the numbers of NATO troops or types of equipment, including tactical nuclear weapons, to be deployed on the territory of new member states;

(4) the United States should reject all efforts to condition NATO decisions on review or approval by the United Nations Security Council;

(5) the United States should clearly delineate those NATO deliberations, including but not limited to discussions on arms control, further Alliance enlargement, procurement matters, and strategic doctrine, that are not subject to review or discussion in the NATO-Russia Permanent Joint Council;

(6) the United States should work to ensure that countries invited to join the Alliance are provided an immediate seat in NATO discussions; and

(7) the United States already pays more than a proportionate share of the costs of the common defense of Europe and should obtain, in advance, agreement on an equitable distribution of the cost of NATO enlargement to ensure that the United States does not continue to bear a disproportionate burden.

##### (b) POLICY WITH RESPECT TO NEGOTIATIONS WITH RUSSIA.—

(1) IMPLEMENTATION.—NATO enlargement should be carried out in such a manner as to underscore the Alliance's defensive nature and demonstrate to Russia that NATO enlargement will enhance the security of all countries in Europe, including Russia. Accordingly, the United States and its NATO allies should make this intention clear in negotiations with Russia, including negotiations regarding adaptation of the Conventional Armed Forces in Europe (CFE) Treaty of November 19, 1990.

(2) LIMITATIONS ON COMMITMENTS TO RUSSIA.—In seeking to demonstrate to Russia NATO's defensive and security-enhancing intentions, it is essential that neither fundamental United States security interests in Europe nor the effectiveness and flexibility of NATO as a defensive alliance be jeopardized. In particular, no commitments should be made to Russia that would have the effect of—

(A) extending rights or imposing responsibilities on new NATO members different from those applicable to current NATO members, including rights or responsibilities with respect to the deployment of nuclear weapons and the stationing of troops and equipment from other NATO members;

(B) limiting the ability of NATO to defend the territory of new NATO members by, for example, restricting the construction of defense infrastructure or limiting the ability of NATO to deploy necessary reinforcements;

(C) providing any international organization, or any country that is not a member of NATO, with authority to delay, veto, or otherwise impede deliberations and decisions of the North Atlantic Council or the implementation of such decisions, including deliberations and decisions with respect to the deployment of NATO forces or the admission of additional members to NATO;

(D) impeding the development of enhanced relations between NATO and other European countries that do not belong to the Alliance;

(E) establishing a nuclear weapons-free zone in Central or Eastern Europe;

(F) requiring NATO to subsidize Russian arms sales, service, or support to the militaries of those former Warsaw Pact countries invited to join the Alliance; or

(G) legitimizing Russian efforts to link concessions in arms control negotiations to NATO enlargement.

(3) COMMITMENTS FROM RUSSIA.—In order to enhance security and stability in Europe, the United States should seek commitments from Russia—

(A) to demarcate and respect all its borders with neighboring states;

(B) to achieve the immediate and complete withdrawal of any armed forces and military equipment under the control of Russia that are deployed on the territories of the independent states of the former Soviet Union without the full and complete agreement of those states;

(C) to station its armed forces on the territory of other states only with the full and complete agreement of that state and in strict accordance with international law; and

(D) to take steps to reduce further its nuclear and conventional forces in Kaliningrad.

(4) CONSULTATIONS.—As negotiations on adaptation of the Treaty on Conventional Armed Forces in Europe proceed, the United States should engage in close and continuous consultations not only with its NATO allies, but also with the emerging democracies of Central and Eastern Europe, Ukraine, and the South Caucasus.

##### (c) POLICY WITH RESPECT TO BALLISTIC MISSILE DEFENSE COOPERATION.—

(1) IN GENERAL.—As the United States proceeds with efforts to develop defenses against ballistic missile attack, it should seek to foster a climate of cooperation with Russia on matters related to missile defense. In particular, the United States and its NATO allies should seek to cooperate with Russia in such areas as early warning.

(2) DISCUSSIONS WITH NATO ALLIES.—The United States should initiate discussions with its NATO allies for the purpose of examining the feasibility of deploying a ballistic missile defense capable of protecting NATO's southern and eastern flanks from a limited ballistic missile attack.

(3) CONSTITUTIONAL PREROGATIVES.—Even as the Congress seeks to promote ballistic missile defense cooperation with Russia, it must insist on its constitutional prerogatives regarding consideration of arms control agreements with Russia that bear on ballistic missile defense.

##### SEC. 2703. AUTHORITIES RELATING TO NATO ENLARGEMENT.

(a) POLICY OF SECTION.—This section is enacted in order to implement the policy set forth in section 2702(a).

(b) DESIGNATION OF ADDITIONAL COUNTRIES ELIGIBLE FOR NATO ENLARGEMENT ASSISTANCE.—

(1) DESIGNATION OF ADDITIONAL COUNTRIES.—Romania, Estonia, Latvia, Lithuania, and Bulgaria are each designated as eligible to receive assistance under the program established under section 203(a) of the NATO Participation Act of 1994 (22 U.S.C. 1928 note) and shall be deemed to have been so designated pursuant to section 203(d)(1) of such Act.

(2) RULE OF CONSTRUCTION.—The designation of countries pursuant to paragraph (1) as eligible to receive assistance under the program established under section 203(a) of the NATO Participation Act of 1994—

(A) is in addition to the designation of other countries by law or pursuant to section 203(d)(2) of such Act as eligible to receive assistance under the program established under section 203(a) of such Act; and

(B) shall not preclude the designation by the President of other emerging democracies in Central and Eastern Europe pursuant to section 203(d)(2) of such Act as eligible to receive assistance under the program established under section 203(a) of such Act.

(3) SENSE OF CONGRESS.—It is the sense of Congress that Romania, Estonia, Latvia, Lithuania, and Bulgaria—

(A) are to be commended for their progress toward political and economic reform and meeting the guidelines for prospective NATO members;

(B) would make an outstanding contribution to furthering the goals of NATO and enhancing stability, freedom, and peace in Europe should they become NATO members; and

(C) upon complete satisfaction of all relevant criteria should be invited to become full NATO members at the earliest possible date.

(c) REGIONAL AIRSPACE INITIATIVE AND PARTNERSHIP FOR PEACE INFORMATION MANAGEMENT SYSTEM.—

(1) *IN GENERAL.*—Funds described in paragraph (2) are authorized to be made available to support the implementation of the Regional Airspace Initiative and the Partnership for Peace Information Management System, including—

(A) the procurement of items in support of these programs; and

(B) the transfer of such items to countries participating in these programs.

(2) *FUNDS DESCRIBED.*—Funds described in this paragraph are funds that are available—

(A) during any fiscal year under the NATO Participation Act of 1994 with respect to countries eligible for assistance under that Act; or

(B) during fiscal year 1998 under any Act to carry out the Warsaw Initiative.

(d) *EXTENSION OF AUTHORITY REGARDING EXCESS DEFENSE ARTICLES.*—Section 105 of Public Law 104-164 (110 Stat. 1427) is amended by striking “1996 and 1997” and inserting “1997, 1998, and 1999”.

(e) *CONFORMING AMENDMENTS TO THE NATO PARTICIPATION ACT OF 1994.*—Section 203(c) of the NATO Participation Act of 1994 (22 U.S.C. 1928 note) is amended—

(1) in paragraph (1), by striking “, without regard to the restrictions” and all that follows through “section”;

(2) by striking paragraph (2);

(3) in paragraph (6), by striking “appropriated under the ‘Nonproliferation and Disarmament Fund’ account” and inserting “made available for the ‘Nonproliferation and Disarmament Fund’”; and

(4) in paragraph (8)—

(A) by striking “any restrictions in sections 516 and 519” and inserting “section 516(e)”;

(B) by striking “as amended.”; and

(C) by striking “paragraphs (1) and (2)” and inserting “paragraph (1)”; and

(5) by redesignating paragraphs (3) through (8) as paragraphs (2) through (7), respectively.

**SEC. 2704. SENSE OF CONGRESS WITH RESPECT TO THE TREATY ON CONVENTIONAL ARMED FORCES IN EUROPE.**

It is the sense of Congress that no revisions to the Treaty on Conventional Armed Forces in Europe will be approved for entry into force with respect to the United States that jeopardize fundamental United States security interests in Europe or the effectiveness and flexibility of NATO as a defensive alliance by—

(1) extending rights or imposing responsibilities on new NATO members different from those applicable to current NATO members, including rights or responsibilities with respect to the deployment of nuclear weapons and the stationing of troops and equipment from other NATO members;

(2) limiting the ability of NATO to defend the territory of new NATO members by, for example, restricting the construction of defense infrastructure or limiting the ability of NATO to deploy necessary reinforcements;

(3) providing any international organization, or any country that is not a member of NATO, with the authority to delay, veto, or otherwise impede deliberations and decisions of the North Atlantic Council or the implementation of such decisions, including deliberations and decisions with respect to the deployment of NATO forces or the admission of additional members to NATO; or

(4) impeding the development of enhanced relations between NATO and other European countries that do not belong to the Alliance.

**SEC. 2705. RESTRICTIONS AND REQUIREMENTS RELATING TO BALLISTIC MISSILE DEFENSE.**

(a) *POLICY OF SECTION.*—This section is enacted in order to implement the policy set forth in section 2702(c).

(b) *RESTRICTION ON ENTRY INTO FORCE OF ABM/TMD DEMARCATION AGREEMENTS.*—An

ABM/TMD demarcation agreement shall not be binding on the United States, and shall not enter into force with respect to the United States, unless, after the date of enactment of this Act, that agreement is specifically approved with the advice and consent of the United States Senate pursuant to Article II, section 2, clause 2 of the Constitution.

(c) *SENSE OF CONGRESS WITH RESPECT TO DEMARCATION AGREEMENTS.*—

(1) *RELATIONSHIP TO MULTILATERALIZATION OF ABM TREATY.*—It is the sense of Congress that no ABM/TMD demarcation agreement will be considered for advice and consent to ratification unless, consistent with the certification of the President pursuant to condition (9) of the resolution of ratification of the CFE Flank Document, the President submits for Senate advice and consent to ratification any agreement, arrangement, or understanding that would—

(A) add one or more countries as State Parties to the ABM Treaty, or otherwise convert the ABM Treaty from a bilateral treaty to a multilateral treaty; or

(B) change the geographic scope or coverage of the ABM Treaty, or otherwise modify the meaning of the term “national territory” as used in Article VI and Article IX of the ABM Treaty.

(2) *PRESERVATION OF UNITED STATES THEATER BALLISTIC MISSILE DEFENSE POTENTIAL.*—It is the sense of Congress that no ABM/TMD demarcation agreement that would reduce the capabilities of United States theater missile defense systems, or the numbers or deployment patterns of such systems, will be approved for entry into force with respect to the United States.

(d) *REPORT ON COOPERATIVE PROJECTS WITH RUSSIA.*—Not later than January 1, 1998, January 1, 1999, and January 1, 2000, the President shall submit to the Committees on International Relations, National Security, and Appropriations of the House of Representatives and the Committees on Foreign Relations, Armed Services, and Appropriations of the Senate a report on cooperative projects with Russia in the area of ballistic missile defense, including in the area of early warning. Each such report shall include the following:

(1) *COOPERATIVE PROJECTS.*—A description of all cooperative projects conducted in the area of early warning and ballistic missile defense during the preceding fiscal year and the fiscal year during which the report is submitted.

(2) *FUNDING.*—A description of the funding for such projects during the preceding fiscal year and the year during which the report is submitted and the proposed funding for such projects for the next fiscal year.

(3) *STATUS OF DIALOGUE OR DISCUSSIONS.*—A description of the status of any dialogue or discussions conducted during the preceding fiscal year between the United States and Russia aimed at exploring the potential for mutual accommodation of outstanding issues between the two nations on matters relating to ballistic missile defense and the ABM Treaty, including the possibility of developing a strategic relationship not based on mutual nuclear threats.

(e) *DEFINITIONS.*—In this section:

(1) *ABM/TMD DEMARCATION AGREEMENT.*—The term “ABM/TMD demarcation agreement” means any agreement that establishes a demarcation between theater ballistic missile defense systems and strategic antiballistic missile defense systems for purposes of the ABM Treaty.

(2) *ABM TREATY.*—The term “ABM Treaty” means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, signed at Moscow on May 26, 1972 (23 UST 3435), and includes the Protocols to that Treaty, signed at Moscow on July 3, 1974 (27 UST 1645).

**TITLE XXVIII—MISCELLANEOUS PROVISIONS**

**SEC. 2801. REPORT ON RELATIONS WITH VIETNAM.**

In order to provide Congress with the necessary information by which to evaluate the relationship between the United States and Vietnam, the Secretary of State shall submit a report to the appropriate congressional committees, not later than 90 days after the date of enactment of this Act and every 180 days thereafter during the period ending September 30, 1999, on the extent to which—

(1) the Government of the Socialist Republic of Vietnam is cooperating with the United States in providing the fullest possible accounting of all unresolved cases of prisoners of war (POWs) or persons missing-in-action (MIAs) through the provision of records and the unilateral and joint recovery and repatriation of American remains;

(2) the Government of the Socialist Republic of Vietnam has made progress toward the release of all political and religious prisoners, including Catholic, Protestant, and Buddhist clergy;

(3) the Government of the Socialist Republic of Vietnam is cooperating with requests by the United States to obtain full and free access to persons of humanitarian interest to the United States for interviews under the Orderly Departure (ODP) and Resettlement Opportunities for Vietnamese Refugees (ROVR) programs, and in providing exit visas for such persons;

(4) the Government of the Socialist Republic of Vietnam has taken vigorous action to end extortion, bribery, and other corrupt practices in connection with such exit visas; and

(5) the Government of the United States is making vigorous efforts to interview and resettle former reeducation camp victims, their immediate families including unmarried sons and daughters, former United States Government employees, and other persons eligible for the ODP program, and to give such persons the full benefit of all applicable United States laws including sections 599D and 599E of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1990 (Public Law 101-167).

**SEC. 2802. REPORTS ON DETERMINATIONS UNDER TITLE IV OF THE LIBERTAD ACT.**

(a) *REPORTS REQUIRED.*—Not later than 30 days after the date of the enactment of this Act and every 3 months thereafter during the period ending September 30, 1999, the Secretary of State shall submit to the appropriate congressional committees a report on the implementation of section 401 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (22 U.S.C. 6091). Each report shall include—

(1) an unclassified list, by economic sector, of the number of entities then under review pursuant to that section;

(2) an unclassified list of all entities and a classified list of all individuals that the Secretary of State has determined to be subject to that section;

(3) an unclassified list of all entities and a classified list of all individuals that the Secretary of State has determined are no longer subject to that section;

(4) an explanation of the status of the review underway for the cases referred to in paragraph (1); and

(5) an unclassified explanation of each determination of the Secretary of State under section 401(a) of that Act and each finding of the Secretary under section 401(c) of that Act—

(A) since the date of the enactment of this Act, in the case of the first report under this subsection; and

(B) in the preceding 3-month period, in the case of each subsequent report.

(b) **PROTECTION OF IDENTITY OF CONCERNED ENTITIES.**—In preparing the report under subsection (a), the names of entities shall not be identified under paragraph (1) or (4).

### SUBDIVISION 3—UNITED NATIONS REFORM

#### TITLE XXX—GENERAL PROVISIONS

##### SEC. 3001. SHORT TITLE.

This subdivision may be cited as the "United Nations Reform Act of 1997".

##### SEC. 3002. DEFINITIONS.

In this subdivision:

(1) **APPROPRIATE CONGRESSIONAL COMMITTEES.**—The term "appropriate congressional committees" means the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on International Relations and the Committee on Appropriations of the House of Representatives.

(2) **DESIGNATED SPECIALIZED AGENCY DEFINED.**—The term "designated specialized agency" means the International Labor Organization, the World Health Organization, and the Food and Agriculture Organization.

(3) **GENERAL ASSEMBLY.**—The term "General Assembly" means the General Assembly of the United Nations.

(4) **SECRETARY GENERAL.**—The term "Secretary General" means the Secretary General of the United Nations.

(5) **SECURITY COUNCIL.**—The term "Security Council" means the Security Council of the United Nations.

(6) **UNITED NATIONS MEMBER.**—The term "United Nations member" means any country that is a member of the United Nations.

(7) **UNITED NATIONS PEACEKEEPING OPERATION.**—The term "United Nations peacekeeping operation" means any United Nations-led operation to maintain or restore international peace or security that—

(A) is authorized by the Security Council; and

(B) is paid for from assessed contributions of United Nations members that are made available for peacekeeping activities.

##### SEC. 3003. NONDELEGATION OF CERTIFICATION REQUIREMENTS.

The Secretary of State may not delegate the authority in this subdivision to make any certification.

#### TITLE XXXI—AUTHORIZATION OF APPROPRIATIONS

##### SEC. 3101. CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS.

(a) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated under the heading "Contributions to International Organizations" \$938,000,000 for the fiscal year 1998 and \$900,000,000 for the fiscal year 1999 for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to international organizations and to carry out other authorities in law consistent with such purposes.

(b) **NO GROWTH BUDGET.**—

(1) **FISCAL YEAR 1998.**—Of the funds made available for fiscal year 1998 under subsection (a), \$80,000,000 may be made available only after the Secretary of State certifies that the United Nations has taken no action during calendar year 1997 to increase funding for any United Nations program without identifying an offsetting decrease elsewhere in the United Nations budget and cause the United Nations to exceed its no growth budget of \$2,603,290,900 for the biennium 1996–97 adopted in December 1996.

(2) **FISCAL YEAR 1999.**—Of the funds made available for fiscal year 1999 under subsection (a), \$80,000,000 may be made available only after the Secretary of State certifies that the United Nations has taken no action during calendar year 1998 to increase funding for any United

Nations program without identifying an offsetting decrease elsewhere in the United Nations budget of \$2,533,000,000 and cause the United Nations to exceed that budget.

(c) **INSPECTOR GENERAL OF THE UNITED NATIONS.**—

(1) **WITHHOLDING OF FUNDS.**—Twenty percent of the funds made available in each fiscal year under subsection (a) for the assessed contribution of the United States to the United Nations shall be withheld from obligation and expenditure until a certification is made under paragraph (2).

(2) **CERTIFICATION.**—A certification under this paragraph is a certification by the Secretary of State in the fiscal year concerned that the following conditions are satisfied:

(A) **ACTION BY THE UNITED NATIONS.**—The United Nations—

(i) has met the requirements of paragraphs (1) through (6) of section 401(b) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 287e note), as amended by paragraph (3);

(ii) has established procedures that require the Under Secretary General of the Office of Internal Oversight Service to report directly to the Secretary General on the adequacy of the Office's resources to enable the Office to fulfill its mandate; and

(iii) has made available an adequate amount of funds to the Office for carrying out its functions.

(B) **AUTHORITY OF OIOS.**—The Office of Internal Oversight Services has authority to audit, inspect, or investigate each program, project, or activity funded by the United Nations, and each executive board created under the United Nations has been notified, in writing, of that authority.

(3) **AMENDMENT OF THE FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEARS 1994 AND 1995.**—Section 401(b) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 is amended—

(A) by amending paragraph (6) to read as follows:

"(6) the United Nations has procedures in place to ensure that all reports submitted by the Office of Internal Oversight Service are made available to the member states of the United Nations without modification except to the extent necessary to protect the privacy rights of individuals."; and

(B) by striking "Inspector General" each place it appears and inserting "Office of Internal Oversight Service".

(d) **PROHIBITION ON CERTAIN GLOBAL CONFERENCES.**—None of the funds made available under subsection (a) shall be available for any United States contribution to pay for any expenses related to the holding of a United Nations Global Conference.

(e) **REDUCTION IN NUMBER OF POSTS.**—

(1) **FISCAL YEAR 1998.**—Of the funds authorized to be appropriated for fiscal year 1998 for the United Nations by subsection (a), \$50,000,000 shall be withheld from obligation and expenditure until the Secretary of State certifies to Congress that the number of posts authorized under the 1998–99 regular budget of the United Nations, and authorized by the General Assembly, has resulted in a net reduction of at least 1,000 posts from the 10,012 posts authorized under the 1996–97 United Nations biennium budget, as a result of a suppression of that number of posts.

(2) **FISCAL YEAR 1999.**—Not later than October 1, 1998, the Secretary of State shall submit a report to the appropriate congressional committees specifying—

(A) the budget savings associated with the reduction of the 1,000 posts specified in paragraph (1), including any reduction in the United States assessed contribution for the United Na-

tions regular budget resulting from those savings;

(B) the vacancy rates for United Nations professional and general service staff contained in the United Nations biennium budget for 1998–99, including any reduction in the United States assessed contribution for the United Nations regular budget resulting from those vacancy rates; and

(C) the goals of the United States for further staff reductions and associated budget savings for the 1998–99 United Nations biennium budget.

(f) **PROHIBITION ON FUNDING OTHER FRAMEWORK TREATY-BASED ORGANIZATIONS.**—None of the funds made available for the 1998–1999 biennium budget under subsection (a) for United States contributions to the regular budget of the United Nations shall be available for the United States proportionate share of any other framework treaty-based organization, including the Framework Convention on Global Climate Change, the International Seabed Authority, and the 1998 Decertification Convention.

(g) **LIMITATIONS FOR FISCAL YEARS 1999 AND 2000.**—

(1) **IN GENERAL.**—The total amount of funds made available for all United States memberships in international organizations under the heading "Contributions to International Organizations" may not exceed \$900,000,000 for each of fiscal years 1999 and 2000.

(2) **CONSULTATIONS WITH CONGRESS.**—The Secretary of State shall regularly consult with the appropriate congressional committees regarding the impact, if any, of the limitation in paragraph (1) on the maintenance of United States membership in such international organizations.

(h) **FOREIGN CURRENCY EXCHANGE RATES.**—

(1) **AUTHORIZATION OF APPROPRIATIONS.**—In addition to amounts authorized to be appropriated by subsection (a), there are authorized to be appropriated such sums as may be necessary for each of fiscal years 1998 and 1999 to offset adverse fluctuations in foreign currency exchange rates.

(2) **AVAILABILITY OF FUNDS.**—Amounts appropriated under this subsection shall be available for obligation and expenditure only to the extent that the Director of the Office of Management and Budget determines and certifies to Congress that such amounts are necessary due to such fluctuations.

(i) **REFUND OF EXCESS CONTRIBUTIONS.**—The United States shall continue to insist that the United Nations and its specialized and affiliated agencies shall credit or refund to each member of the agency concerned its proportionate share of the amount by which the total contributions to the agency exceed the expenditures of the regular assessed budgets of these agencies.

##### SEC. 3102. CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES.

(a) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated under the heading "Contributions for International Peacekeeping Activities" \$220,000,000 for the fiscal year 1998 and \$220,000,000 for the fiscal year 1999 for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to international peacekeeping activities and to carry out other authorities in law consistent with such purposes.

(b) **CODIFICATION OF REQUIRED NOTICE OF PROPOSED UNITED NATIONS PEACEKEEPING OPERATIONS.**—

(1) **CODIFICATION.**—Section 4 of the United Nations Participation Act of 1945 (22 U.S.C. 287b) is amended—

(A) in subsection (a), by striking the second sentence; and

(B) by striking subsection (e) and inserting the following:

**"(e) CONSULTATIONS AND REPORTS ON UNITED NATIONS PEACEKEEPING OPERATIONS.—**

**"(1) CONSULTATIONS.—**Each month the President shall consult with Congress on the status of United Nations peacekeeping operations.

**"(2) INFORMATION TO BE PROVIDED.—**In connection with such consultations, the following information shall be provided each month to the designated congressional committees:

**"(A)** With respect to ongoing United Nations peacekeeping operations, the following:

**"(i)** A list of all resolutions of the United Nations Security Council anticipated to be voted on during such month that would extend or change the mandate of any United Nations peacekeeping operation.

**"(ii)** For each such operation, any changes in the duration, mandate, and command and control arrangements that are anticipated as a result of the adoption of the resolution.

**"(iii)** An estimate of the total cost to the United Nations of each such operation for the period covered by the resolution, and an estimate of the amount of that cost that will be assessed to the United States.

**"(iv)** Any anticipated significant changes in United States participation in or support for each such operation during the period covered by the resolution (including the provision of facilities, training, transportation, communication, and logistical support, but not including intelligence activities reportable under title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.)), and the estimated costs to the United States of such changes.

**"(B)** With respect to each new United Nations peacekeeping operation that is anticipated to be authorized by a Security Council resolution during such month, the following information for the period covered by the resolution:

**"(i)** The anticipated duration, mandate, the command and control arrangements of such operation, the planned exit strategy, and the vital national interest to be served.

**"(ii)** An estimate of the total cost to the United Nations of the operation, and an estimate of the amount of that cost that will be assessed to the United States.

**"(iii)** A description of the functions that would be performed by any United States Armed Forces participating in or otherwise operating in support of the operation, an estimate of the number of members of the Armed Forces that will participate in or otherwise operate in support of the operation, and an estimate of the cost to the United States of such participation or support.

**"(iv)** A description of any other United States assistance to or support for the operation (including the provision of facilities, training, transportation, communication, and logistical support, but not including intelligence activities reportable under title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.)) and an estimate of the cost to the United States of such assistance or support.

**"(v)** A reprogramming of funds pursuant to section 34 of the State Department Basic Authorities Act of 1956, submitted in accordance with the procedures set forth in such section, describing the source of funds that will be used to pay for the cost of the new United Nations peacekeeping operation, provided that such notification shall also be submitted to the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate.

**"(3) FORM AND TIMING OF INFORMATION.—**

**"(A) FORM.—**The President shall submit information under clauses (i) and (iii) of paragraph (2)(A) in writing.

**"(B) TIMING.—**

**"(i) ONGOING OPERATIONS.—**The information required under paragraph (2)(A) for a month

shall be submitted not later than the 10th day of the month.

**"(ii) NEW OPERATIONS.—**The information required under paragraph (2)(B) shall be submitted in writing with respect to each new United Nations peacekeeping operation not less than 15 days before the anticipated date of the vote on the resolution concerned unless the President determines that exceptional circumstances prevent compliance with the requirement to report 15 days in advance. If the President makes such a determination, the information required under paragraph (2)(B) shall be submitted as far in advance of the vote as is practicable.

**"(4) NEW UNITED NATIONS PEACEKEEPING OPERATION DEFINED.—**As used in paragraph (2), the term 'new United Nations peacekeeping operation' includes any existing or otherwise ongoing United Nations peacekeeping operation—

**"(A)** where the authorized force strength is to be expanded;

**"(B)** that is to be authorized to operate in a country in which it was not previously authorized to operate; or

**"(C)** the mandate of which is to be changed so that the operation would be engaged in significant additional or significantly different functions.

**"(5) NOTIFICATION AND QUARTERLY REPORTS REGARDING UNITED STATES ASSISTANCE.—**

**"(A) NOTIFICATION OF CERTAIN ASSISTANCE.—**

**"(i) IN GENERAL.—**The President shall notify the designated congressional committees at least 15 days before the United States provides any assistance to the United Nations to support peacekeeping operations.

**"(ii) EXCEPTION.—**This subparagraph does not apply to—

**"(I)** assistance having a value of less than \$3,000,000 in the case of nonreimbursable assistance or less than \$14,000,000 in the case of reimbursable assistance; or

**"(II)** assistance provided under the emergency drawdown authority of sections 506(a)(1) and 552(c)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2318(a)(1) and 2348a(c)(2)).

**"(B) QUARTERLY REPORTS.—**

**"(i) IN GENERAL.—**The President shall submit quarterly reports to the designated congressional committees on all assistance provided by the United States during the preceding calendar quarter to the United Nations to support peacekeeping operations.

**"(ii) MATTERS INCLUDED.—**Each report under this subparagraph shall describe the assistance provided for each such operation, listed by category of assistance.

**"(iii) FOURTH QUARTER REPORT.—**The report under this subparagraph for the fourth calendar quarter of each year shall be submitted as part of the annual report required by subsection (d) and shall include cumulative information for the preceding calendar year.

**"(f) DESIGNATED CONGRESSIONAL COMMITTEES.—**In this section, the term 'designated congressional committees' means the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on International Relations and the Committee on Appropriations of the House of Representatives."

**(2) CONFORMING REPEAL.—**Subsection (a) of section 407 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 22 U.S.C. 287b note; 108 Stat. 448) is repealed.

**(c) RELATIONSHIP TO OTHER NOTICE REQUIREMENTS.—**Section 4 of the United Nations Participation Act of 1945, as amended by subsection (b), is further amended by adding at the end the following:

**"(g) RELATIONSHIP TO OTHER NOTIFICATION REQUIREMENTS.—**Nothing in this section is in-

tended to alter or supersede any notification requirement with respect to peacekeeping operations that is established under any other provision of law."

### TITLE XXXII—UNITED NATIONS ACTIVITIES

#### SEC. 3201. UNITED NATIONS POLICY ON ISRAEL AND THE PALESTINIANS.

**(a) CONGRESSIONAL STATEMENT.—**It shall be the policy of the United States to promote an end to the persistent inequity experienced by Israel in the United Nations whereby Israel is the only longstanding member of the organization to be denied acceptance into any of the United Nations' regional blocs.

**(b) POLICY ON ABOLITION OF CERTAIN UNITED NATIONS GROUPS.—**It shall be the policy of the United States to seek abolition of certain United Nations groups the existence of which is inimical to the ongoing Middle East peace process, those groups being the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and other Arabs of the Occupied Territories; the Committee on the Exercise of the Inalienable Rights of the Palestinian People; the Division for the Palestinian Rights; and the Division on Public Information on the Question of Palestine.

**(c) ANNUAL REPORTS.—**On January 15 of each year, the Secretary of State shall submit a report to the appropriate congressional committees (in classified or unclassified form as appropriate) on—

(1) actions taken by representatives of the United States to encourage the nations of the Western Europe and Others Group (WEOG) to accept Israel into their regional bloc;

(2) other measures being undertaken, and which will be undertaken, to ensure and promote Israel's full and equal participation in the United Nations; and

(3) steps taken by the United States to secure abolition by the United Nations of groups under subsection (b).

**(d) ANNUAL CONSULTATION.—**At the time of the submission of each annual report under subsection (c), the Secretary of State shall consult with the appropriate congressional committees on specific responses received by the Secretary of State from each of the nations of the Western Europe and Others Group (WEOG) on their position concerning Israel's acceptance into their organization.

#### SEC. 3202. DATA ON COSTS INCURRED IN SUPPORT OF UNITED NATIONS PEACEKEEPING OPERATIONS.

Chapter 6 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2348 et seq.) is amended by adding at the end the following:

#### "SEC. 554. DATA ON COSTS INCURRED IN SUPPORT OF UNITED NATIONS PEACEKEEPING OPERATIONS.

**"(a) UNITED STATES COSTS.—**The United States shall annually provide to the Secretary General of the United Nations data regarding all costs incurred by the United States in support of all United Nations peacekeeping operations.

**"(b) UNITED NATIONS MEMBER COSTS.—**The United States shall request that the United Nations compile and publish information concerning costs incurred by United Nations members in support of such operations."

#### SEC. 3203. REIMBURSEMENT FOR GOODS AND SERVICES PROVIDED BY THE UNITED STATES TO THE UNITED NATIONS.

The United Nations Participation Act of 1945 (22 U.S.C. 287 et seq.) is amended by adding at the end the following new section:

#### "SEC. 10. REIMBURSEMENT FOR GOODS AND SERVICES PROVIDED BY THE UNITED STATES TO THE UNITED NATIONS.

**"(a) REQUIREMENT TO OBTAIN REIMBURSEMENT.—**

"(1) IN GENERAL.—Except as provided in paragraph (2), the President shall seek and obtain in a timely fashion a commitment from the United Nations to provide reimbursement to the United States from the United Nations whenever the United States Government furnishes assistance pursuant to the provisions of law described in subsection (c)—

"(A) to the United Nations when the assistance is designed to facilitate or assist in carrying out an assessed peacekeeping operation;

"(B) for any United Nations peacekeeping operation that is authorized by the United Nations Security Council under Chapter VI or Chapter VII of the United Nations Charter and paid for by peacekeeping or regular budget assessment of the United Nations members; or

"(C) to any country participating in any operation authorized by the United Nations Security Council under Chapter VI or Chapter VII of the United Nations Charter and paid for by peacekeeping assessments of United Nations members when the assistance is designed to facilitate or assist the participation of that country in the operation.

"(2) EXCEPTIONS.—(A) The requirement in paragraph (1) shall not apply to—

"(i) goods and services provided to the United States Armed Forces;

"(ii) assistance having a value of less than \$3,000,000 per fiscal year per operation;

"(iii) assistance furnished before the date of enactment of this section;

"(iv) salaries and expenses of civilian police and other civilian and military monitors where United Nations policy is to require payment by contributing members for similar assistance to United Nations peacekeeping operations; or

"(v) any assistance commitment made before the date of enactment of this Act if such commitment will not extend beyond January 1, 1998.

"(B) The requirements of subsection (d)(1)(B) shall not apply to the deployment of United States military forces when the President determines that such deployment is important to the security interests of the United States. The cost of such deployment shall be included in the data provided under section 554 of the Foreign Assistance Act of 1961.

"(3) FORM AND AMOUNT.—

"(A) AMOUNT.—The amount of any reimbursement under this subsection shall be determined at the usual rate established by the United Nations.

"(B) FORM.—Reimbursement under this subsection may include credits against the United States assessed contributions for United States peacekeeping operations, if the expenses incurred by any United States department or agency providing the assistance have first been reimbursed.

"(b) TREATMENT OF REIMBURSEMENTS.—

"(1) CREDIT.—The amount of any reimbursement paid the United States under subsection (a) shall be credited to the current applicable appropriation, fund, or account of the United States department or agency providing the assistance for which the reimbursement is paid.

"(2) AVAILABILITY.—Amounts credited under paragraph (1) shall be merged with the appropriations, or with appropriations in the fund or account, to which credited and shall be available for the same purposes, and subject to the same conditions and limitations, as the appropriations with which merged.

"(c) COVERED ASSISTANCE.—Subsection (a) applies to assistance provided under the following provisions of law:

"(1) Sections 6 and 7 of this Act.

"(2) Sections 451, 506(a)(1), 516, 552(c), and 607 of the Foreign Assistance Act of 1961.

"(3) Any other provisions of law pursuant to which assistance is provided by the United States to carry out the mandate of an assessed United Nations peacekeeping operation.

"(d) WAIVER.—

"(1) AUTHORITY.—

"(A) IN GENERAL.—The President may authorize the furnishing of assistance covered by this section without regard to subsection (a) if the President determines, and so notifies in writing the Committee on Foreign Relations of the Senate and the Speaker of the House of Representatives, that to do so is important to the security interests of the United States.

"(B) CONGRESSIONAL NOTIFICATION.—When exercising the authorities of subparagraph (A), the President shall notify the appropriate congressional committees in accordance with the procedures applicable to reprogramming notifications under section 634A of the Foreign Assistance Act of 1961.

"(2) CONGRESSIONAL REVIEW.—Notwithstanding a notice under paragraph (1) with respect to assistance covered by this section, subsection (a) shall apply to the furnishing of the assistance if, not later than 15 calendar days after receipt of a notification under that paragraph, the Congress enacts a joint resolution disapproving the determination of the President contained in the notification.

"(3) SENATE PROCEDURES.—Any joint resolution described in paragraph (2) shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

"(e) RELATIONSHIP TO OTHER REIMBURSEMENT AUTHORITY.—Nothing in this section shall preclude the President from seeking reimbursement for assistance covered by this section that is in addition to the reimbursement sought for the assistance under subsection (a).

"(f) DEFINITION.—In this section, the term 'assistance' includes personnel, services, supplies, equipment, facilities, and other assistance if such assistance is provided by the Department of Defense or any other United States Government agency."

**SEC. 3204. UNITED STATES POLICY REGARDING UNITED NATIONS PEACEKEEPING OPERATIONS.**

It shall be the policy of the United States—

(1) to ensure that major peacekeeping operations (in general, those comprised of more than 10,000 troops) authorized by the United Nations Security Council under Chapter VII of the United Nations Charter (or missions such as the United Nations Protection Force (UNPROFOR)) are undertaken by a competent regional organization or a multinational force, and not established as a peacekeeping operation under United Nations operational control which would be paid for by assessment of United Nations members;

(2) to consider, on a case-by-case basis, whether it is in the national interest of the United States to agree that smaller peacekeeping operations authorized by the United Nations Security Council under Chapter VII of the United Nations Charter and paid for by assessment of United Nations members (such as the United Nations Transitional Authority in Slavonia (UNTAES)) should be established as peacekeeping operations under United Nations operational control which would be paid for by assessment of United Nations members; and

(3) to oppose the establishment of United Nations peace operations approved by the General Assembly and funded out of the regular budget of the United Nations.

**SEC. 3205. REFORM IN BUDGET DECISIONMAKING PROCEDURES OF THE UNITED NATIONS AND ITS SPECIALIZED AGENCIES.**

For the fiscal years 1998 and 1999, the President may withhold funds for the United States assessed contribution to the United Nations or to any of its specialized agencies in the same percentage and subject to the same requirements

as are applicable to the withholding of funds under section 409 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 287e note).

**SEC. 3206. CONTINUED EXTENSION OF PRIVILEGES, EXEMPTIONS, AND IMMUNITIES OF THE INTERNATIONAL ORGANIZATIONS IMMUNITIES ACT TO UNIDO.**

Section 12 of the International Organizations Immunities Act (22 U.S.C. 288f-2) is amended by inserting "and the United Nations Industrial Development Organization" after "International Labor Organization".

**SEC. 3207. SENSE OF THE CONGRESS REGARDING COMPLIANCE WITH CHILD AND SPOUSAL SUPPORT OBLIGATIONS BY UNITED NATIONS PERSONNEL.**

(a) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) all United Nations staff, including diplomats, should comply with binding United States Federal, State, and local court orders regarding child and spousal support obligations;

(2) the internal regulations of the United Nations allows—

(A) the United Nations to release staff salary information to the courts in spousal and child support cases;

(B) the Secretary General to authorize deduction of dependency related allowances from staff salary;

(C) the United Nations to cooperate with appropriate authorities to facilitate proper legal or judicial resolution of the family's claim.

(b) CONGRESSIONAL STATEMENT.—The Secretary of State should urge the United Nations to comply fully with regulations regarding compliance with child and spousal support obligations by United Nations personnel, in a timely manner and to the fullest extent possible.

**TITLE XXXIII—ARREARS PAYMENTS AND REFORM**

**CHAPTER 1—ARREARAGES TO THE UNITED NATIONS**

**Subchapter A—Authorization of Appropriations; Obligation and Expenditure of Funds**

**SEC. 3301. AUTHORIZATION OF APPROPRIATIONS.**

(a) IN GENERAL.—There are authorized to be appropriated to the Department of State for payment of arrearages owed by the United States described in subsection (b) as of September 30, 1997—

- (1) \$100,000,000 for fiscal year 1998;
- (2) \$475,000,000 for fiscal year 1999; and
- (3) \$244,000,000 for fiscal year 2000.

(b) LIMITATION.—Amounts made available under subsection (a) are authorized to be available only—

(1) to pay the United States share of assessments for the regular budget of the United Nations;

(2) to pay the United States share of United Nations peacekeeping operations;

(3) to pay the United States share of United Nations specialized agencies; and

(4) to pay the United States share of other international organizations.

(c) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to subsection (a) are authorized to remain available until expended.

(d) STATUTORY CONSTRUCTION.—For purposes of payments made pursuant to subsection (a), section 404(b)(2) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236) shall not apply to United Nations peacekeeping operation assessments received by the United States prior to October 1, 1995.

**SEC. 3302. OBLIGATION AND EXPENDITURE OF FUNDS.**

(a) IN GENERAL.—Funds made available pursuant to section 3301 may be obligated and expended only if the requirements of subsections (b) and (c) of this section are satisfied.

(b) **OBLIGATION AND EXPENDITURE UPON SATISFACTION OF CERTIFICATION REQUIREMENTS.**—Subject to subsection (e), funds made available pursuant to section 3301 may be obligated and expended only in the following allotments and upon the following certifications:

(1) Amounts authorized to be appropriated for fiscal year 1998, upon the certification described in section 3311.

(2) Amounts authorized to be appropriated for fiscal year 1999, upon the certification described in section 3321.

(3) Amounts authorized to be appropriated for fiscal year 2000, upon the certification described in section 3331.

(c) **ADVANCE CONGRESSIONAL NOTIFICATION.**—Funds made available pursuant to section 3301 may be obligated and expended only if the appropriate certification has been submitted to the appropriate congressional committees 30 days prior to the payment of the funds.

(d) **TRANSMITTAL OF CERTIFICATIONS.**—Certifications made under this chapter shall be transmitted by the Secretary of State to the appropriate congressional committees.

(e) **WAIVER AUTHORITY.**—

(1) **FISCAL YEAR 1999 FUNDS.**—Subject to paragraph (3) and notwithstanding subsection (b), funds made available under section 3301 may be obligated or expended pursuant to subsection (b)(2) even if the Secretary of State cannot certify that one of the following three conditions has been satisfied:

(A) The condition described in section 3321(b)(1).

(B) The condition described in section 3321(b)(4).

(C) The condition described in section 3321(b)(5).

(2) **FISCAL YEAR 2000 FUNDS.**—Subject to paragraph (3) and notwithstanding subsection (b), funds made available under section 3301 may be obligated or expended pursuant to subsection (b)(3) even if the Secretary of State cannot certify that one of the following seven conditions has been satisfied: A condition described in paragraph (3), (4), (5), (6), (7), (8), or (9) of section 3331(b).

(3) **REQUIREMENTS.**—

(A) **IN GENERAL.**—The authority to waive a condition under paragraph (1) or (2) of this subsection may be exercised only if—

(i) the Secretary of State determines that substantial progress towards satisfying the condition has been made and that the expenditure of funds pursuant to that paragraph is important to the interests of the United States; and

(ii) the Secretary of State has notified, and consulted with, the appropriate congressional committees prior to exercising the authority.

(B) **EFFECT ON SUBSEQUENT CERTIFICATION.**—If the Secretary of State exercises the authority of paragraph (1) with respect to a condition, such condition shall be deemed to have been satisfied for purposes of making any certification under section 3331.

(4) **ADDITIONAL REQUIREMENT.**—If the authority to waive a condition under paragraph 1(A) is exercised, the Secretary shall notify the United Nations that the Congress does not consider the United States obligated to pay, and does not intend to pay, arrearages that have not been included in the contested arrearages account or other mechanism described in section 3321(b)(1).

**SEC. 3303. FORGIVENESS OF AMOUNTS OWED BY THE UNITED NATIONS TO THE UNITED STATES.**

(a) **FORGIVENESS OF INDEBTEDNESS.**—Subject to subsection (b), the President is authorized to forgive or reduce any amount owed by the United Nations to the United States as a reimbursement, including any reimbursement payable under the Foreign Assistance Act of 1961 or the United Nations Participation Act of 1945.

(b) **LIMITATIONS.**—

(1) **TOTAL AMOUNT.**—The total of amounts forgiven or reduced under subsection (a) may not exceed \$107,000,000.

(2) **RELATION TO UNITED STATES ARREARAGES.**—Amounts shall be forgiven or reduced under this section only to the same extent as the United Nations forgives or reduces amounts owed by the United States to the United Nations as of September 30, 1997.

(c) **REQUIREMENTS.**—The authority in subsection (a) shall be available only to the extent and in the amounts provided in advance in appropriations Acts.

(d) **CONGRESSIONAL NOTIFICATION.**—Before exercising any authority in subsection (a), the President shall notify the appropriate congressional committees in accordance with the same procedures as are applicable to reprogramming notifications under section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394-1).

(e) **EFFECTIVE DATE.**—This section shall take effect on the later of—

(1) the date a certification is transmitted to the appropriate congressional committees under section 3331; or

(2) October 1, 1999.

**Subchapter B—United States Sovereignty**

**SEC. 3311. CERTIFICATION REQUIREMENTS.**

(a) **CONTENTS OF CERTIFICATION.**—A certification described in this section is a certification by the Secretary of State that the following conditions are satisfied:

(1) **LIMITATION ON ASSESSED SHARE OF REGULAR BUDGET.**—The share of the total of all assessed contributions for the regular budget of the United Nations does not exceed 22 percent for any single United Nations member.

(2) **SUPREMACY OF THE UNITED STATES CONSTITUTION.**—No action has been taken by the United Nations or any of its specialized or affiliated agencies that requires the United States to violate the United States Constitution or any law of the United States.

(3) **NO UNITED NATIONS SOVEREIGNTY.**—Neither the United Nations nor any of its specialized or affiliated agencies—

(A) has exercised sovereignty over the United States; or

(B) has taken any steps that require the United States to cede sovereignty.

(4) **NO UNITED NATIONS TAXATION.**—

(A) **NO LEGAL AUTHORITY.**—Except as provided in subparagraph (D), neither the United Nations nor any of its specialized or affiliated agencies has the authority under United States law to impose taxes or fees on United States nationals.

(B) **NO TAXES OR FEES.**—Except as provided in subparagraph (D), a tax or fee has not been imposed on any United States national by the United Nations or any of its specialized or affiliated agencies.

(C) **NO TAXATION PROPOSALS.**—Except as provided in subparagraph (D), neither the United Nations nor any of its specialized or affiliated agencies has, on or after October 1, 1996, officially approved any formal effort to develop, advocate, or promote any proposal concerning the imposition of a tax or fee on any United States national in order to raise revenue for the United Nations or any such agency.

(D) **EXCEPTION.**—This paragraph does not apply to—

(i) fees for publications or other kinds of fees that are not tantamount to a tax on United States citizens;

(ii) the World Intellectual Property Organization; or

(iii) the staff assessment costs of the United Nations and its specialized or affiliated agencies.

(5) **NO STANDING ARMY.**—The United Nations has not, on or after October 1, 1996, budgeted

any funds for, nor taken any official steps to develop, create, or establish any special agreement under Article 43 of the United Nations Charter to make available to the United Nations, on its call, the armed forces of any member of the United Nations.

(6) **NO INTEREST FEES.**—The United Nations has not, on or after October 1, 1996, levied interest penalties against the United States or any interest on arrearages on the annual assessment of the United States, and neither the United Nations nor its specialized agencies have, on or after October 1, 1996, amended their financial regulations or taken any other action that would permit interest penalties to be levied against the United States or otherwise charge the United States any interest on arrearages on its annual assessment.

(7) **UNITED STATES REAL PROPERTY RIGHTS.**—Neither the United Nations nor any of its specialized or affiliated agencies has exercised authority or control over any United States national park, wildlife preserve, monument, or real property, nor has the United Nations nor any of its specialized or affiliated agencies implemented plans, regulations, programs, or agreements that exercise control or authority over the private real property of United States citizens located in the United States without the approval of the property owner.

(8) **TERMINATION OF BORROWING AUTHORITY.**—

(A) **PROHIBITION ON AUTHORIZATION OF EXTERNAL BORROWING.**—On or after the date of enactment of this Act, neither the United Nations nor any specialized agency of the United Nations has amended its financial regulations to permit external borrowing.

(B) **PROHIBITION OF UNITED STATES PAYMENT OF INTEREST COSTS.**—The United States has not, on or after October 1, 1984, paid its share of any interest costs made known to or identified by the United States Government for loans incurred, on or after October 1, 1984, by the United Nations or any specialized agency of the United Nations through external borrowing.

(b) **TRANSMITTAL.**—The Secretary of State may transmit a certification under subsection (a) at any time during fiscal year 1998 or thereafter if the requirements of the certification are satisfied.

**Subchapter C—Reform of Assessments and United Nations Peacekeeping Operations**

**SEC. 3321. CERTIFICATION REQUIREMENTS.**

(a) **IN GENERAL.**—A certification described in this section is a certification by the Secretary of State that the conditions in subsection (b) are satisfied. Such certification shall not be made by the Secretary if the Secretary determines that any of the conditions set forth in section 3311 are no longer satisfied.

(b) **CONDITIONS.**—The conditions under this subsection are the following:

(1) **CONTESTED ARREARAGES.**—The United Nations has established an account or other appropriate mechanism with respect to all United States arrearages incurred before the date of enactment of this Act with respect to which payments are not authorized by this division, and the failure to pay amounts specified in the account do not affect the application of Article 19 of the Charter of the United Nations. The account established under this paragraph may be referred to as the "contested arrearages account".

(2) **LIMITATION ON ASSESSED SHARE OF BUDGET FOR UNITED NATIONS PEACEKEEPING OPERATIONS.**—The assessed share of the budget for each assessed United Nations peacekeeping operation does not exceed 25 percent for any single United Nations member.

(3) **LIMITATION ON ASSESSED SHARE OF REGULAR BUDGET FOR THE DESIGNATED SPECIALIZED AGENCIES.**—The share of the total of all assessed

contributions for the regular budget of any designated specialized agency does not exceed 22 percent for any single United Nations member.

(4) **REVIEW OF REGULAR BUDGET-FUNDED PEACE OPERATIONS.**—The mandates of the United Nations Truce Supervision Organization (UNTSO) and the United Nations Military Observer Group in India and Pakistan (UNMOGIP) are reviewed annually by the Security Council, and are subject to the notification requirements pursuant to section 4(e) of the United Nations Participation Act of 1945, as amended by section 3102(b) of this division.

(5) **PROCUREMENT.**—

(A) **PROHIBITION ON PUNITIVE ACTIONS.**—The United Nations has implemented a system that prohibits punitive actions, such as suspension of contract eligibility, against contractors on the basis that they have challenged contract awards or complained about delayed payments.

(B) **PUBLIC ANNOUNCEMENT OF CERTAIN CONTRACT AWARDS.**—The United Nations has implemented a system for public announcement of the award of any contract over \$100,000.

(C) **NOTIFICATION OF UNSUCCESSFUL BIDDERS.**—The United Nations has implemented a system to notify unsuccessful bidders for contracts and to provide an explanation upon request of the reason for rejection of their bids.

(D) **PERIODIC REPORTING TO UNITED NATIONS MEMBERS.**—The United Nations reports to all United Nations members on a regular basis the value and a brief description of local procurement contracts awarded in excess of \$70,000.

**Subchapter D—Budget and Personnel Reform SEC. 3331. CERTIFICATION REQUIREMENTS.**

(a) **IN GENERAL.**—A certification described in this section is a certification by the Secretary of State that the following conditions in subsection (b) are satisfied. Such certification shall not be made by the Secretary if the Secretary determines that any of the conditions set forth in sections 3311 and 3321 are no longer satisfied.

(b) **CONDITIONS.**—The conditions under this subsection are the following:

(1) **LIMITATION ON ASSESSED SHARE OF REGULAR BUDGET.**—The share of the total of all assessed contributions for the regular budget of the United Nations, or any designated specialized agency of the United Nations, does not exceed 20 percent for any single United Nations member.

(2) **INSPECTORS GENERAL FOR CERTAIN ORGANIZATIONS.**—

(A) **ESTABLISHMENT OF OFFICES.**—Each designated specialized agency has established an independent office of inspector general to conduct and supervise objective audits, inspections, and investigations relating to the programs and operations of the organization.

(B) **APPOINTMENT OF INSPECTORS GENERAL.**—The Director General of each designated specialized agency has appointed an inspector general, with the approval of the member states, and that appointment was made principally on the basis of the appointee's integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations.

(C) **ASSIGNED FUNCTIONS.**—Each inspector general appointed under subparagraph (A) is authorized to—

(i) make investigations and reports relating to the administration of the programs and operations of the agency concerned;

(ii) have access to all records, documents, and other available materials relating to those programs and operations of the agency concerned; and

(iii) have direct and prompt access to any official of the agency concerned.

(D) **COMPLAINTS.**—Each designated specialized agency has procedures in place designed to protect the identity of, and to prevent reprisals

against, any staff member making a complaint or disclosing information to, or cooperating in any investigation or inspection by, the inspector general of the agency.

(E) **COMPLIANCE WITH RECOMMENDATIONS.**—Each designated specialized agency has in place procedures designed to ensure compliance with the recommendations of the inspector general of the agency.

(F) **AVAILABILITY OF REPORTS.**—Each designated specialized agency has in place procedures to ensure that all annual and other relevant reports submitted by the inspector general to the agency are made available to the member states without modification except to the extent necessary to protect the privacy rights of individuals.

(3) **NEW BUDGET PROCEDURES FOR THE UNITED NATIONS.**—The United Nations has established and is implementing budget procedures that—

(A) require the maintenance of a budget not in excess of the level agreed to by the General Assembly at the beginning of each United Nations budgetary biennium, unless increases are agreed to by consensus; and

(B) require the systemwide identification of expenditures by functional categories such as personnel, travel, and equipment.

(4) **SUNSET POLICY FOR CERTAIN UNITED NATIONS PROGRAMS.**—

(A) **EXISTING AUTHORITY.**—The Secretary General and the Director General of each designated specialized agency have used their existing authorities to require program managers within the United Nations Secretariat and the Secretariats of the designated specialized agencies to conduct evaluations of United Nations programs approved by the General Assembly and of programs of the designated specialized agencies in accordance with the standardized methodology referred to in subparagraph (B).

(B) **DEVELOPMENT OF EVALUATION CRITERIA.**—

(i) **UNITED NATIONS.**—The Office of Internal Oversight Services has developed a standardized methodology for the evaluation of United Nations programs approved by the General Assembly, including specific criteria for determining the continuing relevance and effectiveness of the programs.

(ii) **DESIGNATED SPECIALIZED AGENCIES.**—Patterned on the work of the Office of Internal Oversight Services of the United Nations, each designated specialized agency has developed a standardized methodology for the evaluation of programs of designated specialized agencies, including specific criteria for determining the continuing relevance and effectiveness of the programs.

(C) **PROCEDURES.**—Consistent with the July 16, 1997, recommendations of the Secretary General of the United Nations regarding a sunset policy and results-based budgeting for United Nations programs, the United Nations and each designated specialized agency has established and is implementing procedures—

(i) requiring the Secretary General and the Director General of the agency, as the case may be, to report on the results of evaluations referred to in this paragraph, including the identification of programs that have met criteria for continuing relevance and effectiveness and proposals to terminate or modify programs that have not met such criteria; and

(ii) authorizing an appropriate body within the United Nations or the agency, as the case may be, to review each evaluation referred to in this paragraph and report to the General Assembly on means of improving the program concerned or on terminating the program.

(D) **UNITED STATES POLICY.**—It shall be the policy of the United States to seek adoption by the United Nations of a resolution requiring that each United Nations program approved by the General Assembly, and to seek adoption by

each designated specialized agency of a resolution requiring that each program of the agency, be subject to an evaluation referred to in this paragraph and have a specific termination date so that the program will not be renewed unless the evaluation demonstrates the continuing relevance and effectiveness of the program.

(E) **DEFINITION.**—For purposes of this paragraph, the term "United Nations program approved by the General Assembly" means a program approved by the General Assembly of the United Nations, which is administered or funded by the United Nations.

(5) **UNITED NATIONS ADVISORY COMMITTEE ON ADMINISTRATIVE AND BUDGETARY QUESTIONS.**—

(A) **IN GENERAL.**—The United States has a seat on the United Nations Advisory Committee on Administrative and Budgetary Questions or the five largest member contributors each have a seat on the Advisory Committee.

(B) **DEFINITION.**—As used in this paragraph, the term "5 largest member contributors" means the 5 United Nations member states that, during a United Nations budgetary biennium, have more total assessed contributions than any other United Nations member state to the aggregate of the United Nations regular budget and the budget (or budgets) for United Nations peace-keeping operations.

(6) **ACCESS BY THE GENERAL ACCOUNTING OFFICE.**—The United Nations has in effect procedures providing access by the United States General Accounting Office to United Nations financial data to assist the Office in performing nationally mandated reviews of United Nations operations.

(7) **PERSONNEL.**—

(A) **APPOINTMENT AND SERVICE OF PERSONNEL.**—The Secretary General—

(i) has established and is implementing procedures that ensure that staff employed by the United Nations is appointed on the basis of merit consistent with Article 101 of the United Nations Charter; and

(ii) is enforcing those contractual obligations requiring worldwide availability of all professional staff of the United Nations to serve and be relocated based on the needs of the United Nations.

(B) **CODE OF CONDUCT.**—The General Assembly has adopted, and the Secretary General has the authority to enforce and is effectively enforcing, a code of conduct binding on all United Nations personnel, including the requirement of financial disclosure statements binding on senior United Nations personnel and the establishment of rules against nepotism that are binding on all United Nations personnel.

(C) **PERSONNEL EVALUATION SYSTEM.**—The United Nations has adopted and is enforcing a personnel evaluation system.

(D) **PERIODIC ASSESSMENTS.**—The United Nations has established and is implementing a mechanism to conduct periodic assessments of the United Nations payroll to determine total staffing, and the results of such assessments are reported in an unabridged form to the General Assembly.

(E) **REVIEW OF UNITED NATIONS ALLOWANCE SYSTEM.**—The United States has completed a thorough review of the United Nations personnel allowance system. The review shall include a comparison of that system with the United States civil service, and shall make recommendations to reduce entitlements to allowances and allowance funding levels from the levels in effect on January 1, 1998.

(8) **REDUCTION IN BUDGET AUTHORITIES.**—The designated specialized agencies have achieved a negative growth budget in their biennium budgets for 2000-01 from the 1998-99 biennium budget levels of the respective agencies.

(9) **NEW BUDGET PROCEDURES AND FINANCIAL REGULATIONS.**—Each designated specialized agency has established procedures to—

(A) require the maintenance of a budget that does not exceed the level agreed to by the member states of the organization at the beginning of each budgetary biennium, unless increases are agreed to by consensus;

(B) require the identification of expenditures by functional categories such as personnel, travel, and equipment; and

(C) require approval by the member states of the agency's supplemental budget requests to the Secretariat in advance of expenditures under those requests.

#### CHAPTER 2—MISCELLANEOUS PROVISIONS

##### SEC. 3341. STATUTORY CONSTRUCTION ON RELATION TO EXISTING LAWS.

Except as otherwise specifically provided, nothing in this title may be construed to make available funds in violation of any provision of law containing a specific prohibition or restriction on the use of the funds, including section 114 of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (22 U.S.C. 287e note) and section 151 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (22 U.S.C. 287e note), and section 404 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 287e note).

##### SEC. 3342. PROHIBITION ON PAYMENTS RELATING TO UNIDO AND OTHER INTERNATIONAL ORGANIZATIONS FROM WHICH THE UNITED STATES HAS WITHDRAWN OR RESCINDED FUNDING.

None of the funds authorized to be appropriated by this subdivision shall be used to pay any arrearage for—

(1) the United Nations Industrial Development Organization;

(2) any costs to merge that organization into the United Nations;

(3) the costs associated with any other organization of the United Nations from which the United States has withdrawn including the costs of the merger of such organization into the United Nations; or

(4) the World Tourism Organization, or any other international organization with respect to which Congress has rescinded funding.

#### THE RECIPROCAL TRADE AGREEMENT ACT OF 1997

##### MURRAY AMENDMENT NO. 1622

(Ordered to lie on the table.)

Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill, S. 1269, supra; as follows:

At the appropriate place, insert the following:

##### SEC. . CONGRESSIONAL OVERSIGHT GROUPS.

(a) APPOINTMENT AND FUNCTIONS.—Not later than 30 days after the date on which the President provides notice under section 4(a)(1) of the President's intention to enter into negotiations with respect to a trade agreement—

(1) the Speaker of the House of Representatives, upon the recommendation of the chairman of the Committee on Ways and Means, shall appoint 5 members (not more than 3 of whom are members of the same political party) of such committee, and

(2) the President pro tempore of the Senate, upon the recommendation of the chairman of the Committee on Finance, shall appoint 5 members (not more than 3 of whom are members of the same political party) of such committee,

to serve as members of a Congressional Oversight Group for the negotiations. Each such

member shall be accredited by the United States Trade Representative on behalf of the President as official advisers to the United States delegation in the negotiations. Members of the Congressional Oversight Group shall consult with and provide advice to the Trade Representative regarding the formulation of specific objectives, negotiating strategies and positions, and the development of the trade agreement.

(b) ADDITIONAL MEMBERS.—

(1) AUTHORITY TO APPOINT.—In addition to the members designated under subsection (a) for a Congressional Oversight Group—

(A) the Speaker of the House of Representatives may appoint additional members of the House from any other committee of the House or joint committee of Congress to serve as members of the Congressional Oversight Group; and

(B) the President pro tempore of the Senate may appoint additional members of the Senate from any other committee of the Senate or joint committee of Congress to serve as members of the Congressional Oversight Group.

Members of the House and Senate appointed under this paragraph shall be accredited by the United States Trade Representative.

(2) CONSULTATIONS.—Before designating any member under paragraph (1), the Speaker or the President pro tempore shall consult with—

(A) the chairman and ranking minority member of the Committee on Ways and Means and the Committee on Finance, as appropriate; and

(B) the chairman and ranking minority member of the committee from which the member will be appointed.

(3) AFFILIATION.—Not more than 2 members may be appointed under this subsection as members of any Congressional Oversight Group from any 1 committee of Congress. If 2 members are appointed from 1 committee, they must be from different political parties, and the total members from any political party appointed under this subsection for any Congressional Oversight Group may not exceed the total number of members from any other political party.

(c) GUIDELINES.—

(1) PURPOSE AND REVISION.—Within 120 days after the date of enactment of this Act, the United States Trade Representative shall develop written guidelines, in consultation with the chairmen and ranking minority members of the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, to facilitate the useful and timely exchange of information between the Trade Representative and the Congressional Oversight Groups established under this section. The Trade Representative may revise the guidelines from time to time as needed following further such consultation.

(2) CONTENT.—The guidelines developed under paragraph (1) shall provide for, among other things—

(A) regular, detailed briefings of each Congressional Oversight Group regarding negotiating objectives and positions and status of the negotiations with respect to which the group was appointed, beginning as soon as practicable after the appointment of the members of the group, with more frequent briefings as trade negotiations enter the final stage;

(B) access by members of each Congressional Oversight Group, and staff with proper security clearances, to pertinent documents relating to the negotiations, including classified materials; and

(C) the closest practicable coordination between the Trade Representative and each Congressional Oversight Group at all critical periods during the negotiations, including at negotiation sites.

On page 34, lines 1 and 2, strike "the congressional advisers on trade policy and negotiations appointed under section 161 of the Trade Act of 1974 (19 U.S.C. 2211)," and insert "the Congressional Oversight Group appointed under this Act."

#### THE HOMEOWNERS PROTECTION ACT OF 1997

##### D'AMATO (AND SARBANES) AMENDMENT NO. 1623

Mr. SESSIONS (for Mr. D'AMATO, for himself and Mr. SARBANES) proposed an amendment to the bill (S. 318) to amend the Truth in Lending Act to require automatic cancellation and notice of cancellation rights with respect to private mortgage insurance which is required by a creditor as a condition for entering into a residential mortgage transaction, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

##### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Homeowners Protection Act of 1997".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Definitions.
- Sec. 3. Termination of private mortgage insurance.
- Sec. 4. Disclosure requirements.
- Sec. 5. Notification upon cancellation or termination.
- Sec. 6. Disclosure requirements for lender paid mortgage insurance.
- Sec. 7. Fees for disclosures.
- Sec. 8. Civil liability.
- Sec. 9. Effect on other laws and agreements.
- Sec. 10. Enforcement.
- Sec. 11. Construction.
- Sec. 12. Effective date.
- Sec. 13. Abolishment of the Thrift Depositor Protection Oversight Board.

##### SEC. 2. DEFINITIONS.

In this Act, the following definitions shall apply:

(1) ADJUSTABLE RATE MORTGAGE.—The term "adjustable rate mortgage" means a residential mortgage that has an interest rate that is subject to change.

(2) CANCELLATION DATE.—The term "cancellation date" means—

(A) with respect to a fixed rate mortgage, at the option of the mortgagor, the date on which the principal balance of the mortgage—

(i) based solely on the initial amortization schedule for that mortgage, and irrespective of the outstanding balance for that mortgage on that date, is first scheduled to reach 80 percent of the original value of the property securing the loan; or

(ii) based solely on actual payments, reaches 80 percent of the original value of the property securing the loan; and

(B) with respect to an adjustable rate mortgage, at the option of the mortgagor, the date on which the principal balance of the mortgage—

(i) based solely on amortization schedules for that mortgage, and irrespective of the

outstanding balance for that mortgage on that date, is first scheduled to reach 80 percent of the original value of the property securing the loan; or

(1) based solely on actual payments, first reaches 80 percent of the original value of the property securing the loan.

(3) **FIXED RATE MORTGAGE.**—The term "fixed rate mortgage" means a residential mortgage that has an interest rate that is not subject to change.

(4) **GOOD PAYMENT HISTORY.**—The term "good payment history" means, with respect to a mortgagor, that the mortgagor has not—

(A) made a mortgage payment that was 60 days or longer past due during the 12-month period beginning 24 months before the date on which the mortgage reaches the cancellation date; or

(B) made a mortgage payment that was 30 days or longer past due during the 12-month period preceding the date on which the mortgage reaches the cancellation date.

(5) **INITIAL AMORTIZATION SCHEDULE.**—The term "initial amortization schedule" means a schedule established at the time at which a residential mortgage transaction is consummated with respect to a fixed rate mortgage, showing—

(A) the amount of principal and interest that is due at regular intervals to retire the principal balance and accrued interest over the amortization period of the loan; and

(B) the unpaid principal balance of the loan after each scheduled payment is made.

(6) **MORTGAGE INSURANCE.**—The term "mortgage insurance" means insurance, including any mortgage guaranty insurance, against the nonpayment of, or default on, an individual mortgage or loan involved in a residential mortgage transaction.

(7) **MORTGAGE INSURER.**—The term "mortgage insurer" means a provider of private mortgage insurance, as described in this Act, that is authorized to transact such business in the State in which the provider is transacting such business.

(8) **MORTGAGEE.**—The term "mortgagee" means the holder of a residential mortgage at the time at which that mortgage transaction is consummated.

(9) **MORTGAGOR.**—The term "mortgagor" means the original borrower under a residential mortgage or his or her successors or assignees.

(10) **ORIGINAL VALUE.**—The term "original value", with respect to a residential mortgage, means the lesser of the sales price of the property securing the mortgage, as reflected in the contract, or the appraised value at the time at which the subject residential mortgage transaction was consummated.

(11) **PRIVATE MORTGAGE INSURANCE.**—The term "private mortgage insurance" means mortgage insurance other than mortgage insurance made available under the National Housing Act, title 38 of the United States Code, or title V of the Housing Act of 1949.

(12) **RESIDENTIAL MORTGAGE.**—The term "residential mortgage" means a mortgage, loan, or other evidence of a security interest created with respect to a single-family dwelling that is the primary residence of the mortgagor.

(13) **RESIDENTIAL MORTGAGE TRANSACTION.**—The term "residential mortgage transaction" means a transaction consummated on or after the date that is 1 year after the date of enactment of this Act, in which a mortgage, deed of trust, purchase money security interest arising under an installment sales contract, or equivalent consensual se-

curity interest is created or retained against a single-family dwelling that is the primary residence of the mortgagor to finance the acquisition, initial construction, or refinancing of that dwelling.

(14) **SERVICER.**—The term "servicer" has the same meaning as in section 6(1)(2) of the Real Estate Settlement Procedures Act of 1974, with respect to a residential mortgage.

(15) **SINGLE-FAMILY DWELLING.**—The term "single-family dwelling" means a residence consisting of 1 family dwelling unit.

(16) **TERMINATION DATE.**—The term "termination date" means—

(A) with respect to a fixed rate mortgage, the date on which the principal balance of the mortgage, based solely on the initial amortization schedule for that mortgage, and irrespective of the outstanding balance for that mortgage on that date, is first scheduled to reach 78 percent of the original value of the property securing the loan; and

(B) with respect to an adjustable rate mortgage, the date on which the principal balance of the mortgage, based solely on amortization schedules for that mortgage, and irrespective of the outstanding balance for that mortgage on that date, is first scheduled to reach 78 percent of the original value of the property securing the loan.

### SEC. 3. TERMINATION OF PRIVATE MORTGAGE INSURANCE.

(a) **BORROWER CANCELLATION.**—A requirement for private mortgage insurance in connection with a residential mortgage transaction shall be canceled on the cancellation date, if the mortgagor—

(1) submits a request in writing to the servicer that cancellation be initiated;

(2) has a good payment history with respect to the residential mortgage; and

(3) has satisfied any requirement of the holder of the mortgage (as of the date of a request under paragraph (1)) for—

(A) evidence (of a type established in advance and made known to the mortgagor by the servicer promptly upon receipt of a request under paragraph (1)) that the value of the property securing the mortgage has not declined below the original value of the property; and

(B) certification that the equity of the mortgagor in the residence securing the mortgage is unencumbered by a subordinate lien.

(b) **AUTOMATIC TERMINATION.**—A requirement for private mortgage insurance in connection with a residential mortgage transaction shall terminate with respect to payments for that mortgage insurance made by the mortgagor—

(1) on the termination date if, on that date, the mortgagor is current on the payments required by the terms of the residential mortgage transaction; or

(2) on the date after the termination date on which the mortgagor becomes current on the payments required by the terms of the residential mortgage transaction.

(c) **FINAL TERMINATION.**—If a requirement for private mortgage insurance is not otherwise canceled or terminated in accordance with subsection (a) or (b), in no case may such a requirement be imposed beyond the first day of the month immediately following the date that is the midpoint of the amortization period of the loan if the mortgagor is current on the payments required by the terms of the mortgage.

(d) **NO FURTHER PAYMENTS.**—No payments or premiums may be required from the mortgagor in connection with a private mortgage insurance requirement terminated or canceled under this section—

(1) in the case of cancellation under subsection (a), more than 30 days after the later of—

(A) the date on which a request under subsection (a)(1) is received; or

(B) the date on which the mortgagor satisfies any evidence and certification requirements under subsection (a)(3);

(2) in the case of termination under subsection (b), more than 30 days after the termination date or the date referred to in subsection (b)(2), as applicable; and

(3) in the case of termination under subsection (c), more than 30 days after the final termination date established under that subsection.

(e) **RETURN OF UNEARNED PREMIUMS.**—

(1) **IN GENERAL.**—Not later than 45 days after the termination or cancellation of a private mortgage insurance requirement under this section, all unearned premiums for private mortgage insurance shall be returned to the mortgagor by the servicer.

(2) **TRANSFER OF FUNDS TO SERVICER.**—Not later than 30 days after notification by the servicer of termination or cancellation of private mortgage insurance under this Act with respect to a mortgagor, a mortgage insurer that is in possession of any unearned premiums of that mortgagor shall transfer to the servicer of the subject mortgage an amount equal to the amount of the unearned premiums for repayment in accordance with paragraph (1).

(f) **EXCEPTIONS FOR HIGH RISK LOANS.**—

(1) **IN GENERAL.**—The termination and cancellation provisions in subsections (a) and (b) do not apply to any residential mortgage or mortgage transaction that, at the time at which the residential mortgage transaction is consummated, has high risks associated with the extension of the loan—

(A) as determined in accordance with guidelines published by the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, in the case of a mortgage loan with an original principal balance that does not exceed the applicable annual conforming loan limit for the secondary market established pursuant to section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act, so as to require the imposition or continuation of a private mortgage insurance requirement beyond the terms specified in subsection (a) or (b) of section 3; or

(B) as determined by the mortgagee in the case of any other mortgage, except that termination shall occur—

(i) with respect to a fixed rate mortgage, on the date on which the principal balance of the mortgage, based solely on the initial amortization schedule for that mortgage, and irrespective of the outstanding balance for that mortgage on that date, is first scheduled to reach 77 percent of the original value of the property securing the loan; and

(ii) with respect to an adjustable rate mortgage, on the date on which the principal balance of the mortgage, based solely on amortization schedules for that mortgage, and irrespective of the outstanding balance for that mortgage on that date, is first scheduled to reach 77 percent of the original value of the property securing the loan.

(2) **TERMINATION AT MIDPOINT.**—A private mortgage insurance requirement in connection with a residential mortgage or mortgage transaction described in paragraph (1) shall terminate in accordance with subsection (c).

(3) **RULE OF CONSTRUCTION.**—Nothing in this subsection may be construed to require a mortgage or mortgage transaction described

in paragraph (1)(A) to be purchased by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation.

#### SEC. 4. DISCLOSURE REQUIREMENTS.

(a) DISCLOSURES FOR NEW MORTGAGES AT TIME OF TRANSACTION.—

(1) DISCLOSURES FOR NON-EXEMPTED TRANSACTIONS.—In any case in which private mortgage insurance is required in connection with a residential mortgage or mortgage transaction (other than a mortgage or mortgage transaction described in section 3(f)(1)), at the time at which the transaction is consummated, the mortgagee shall provide to the mortgagor—

(A) if the transaction relates to a fixed rate mortgage—

(i) a written initial amortization schedule; and

(ii) written notice—

(I) that the mortgagor may cancel the requirement in accordance with section 3(a) of this Act indicating the date on which the mortgagor may request cancellation, based solely on the initial amortization schedule;

(II) that the mortgagor may request cancellation in accordance with section 3(a) of this Act earlier than provided for in the initial amortization schedule, based on actual payments;

(III) that the requirement for private mortgage insurance will automatically terminate on the termination date in accordance with section 3(b) of this Act, and what that termination date is with respect to that mortgage; and

(IV) that there are exemptions to the right to cancellation and automatic termination of a requirement for private mortgage insurance in accordance with section 3(f) of this Act, and whether such an exemption applies at that time to that transaction; and

(B) if the transaction relates to an adjustable rate mortgage, a written notice that—

(i) the mortgagor may cancel the requirement in accordance with section 3(a) of this Act on the cancellation date, and that the servicer will notify the mortgagor when the cancellation date is reached;

(ii) the requirement for private mortgage insurance will automatically terminate on the termination date, and that on the termination date, the mortgagor will be notified of the termination or that the requirement will be terminated as soon as the mortgagor is current on loan payments; and

(iii) there are exemptions to the right of cancellation and automatic termination of a requirement for private mortgage insurance in accordance with section 3(f) of this Act, and whether such an exemption applies at that time to that transaction.

(2) DISCLOSURES FOR EXEMPTED TRANSACTIONS.—In the case of a mortgage or mortgage transaction described in section 3(f)(1), at the time at which the transaction is consummated, the mortgagee shall provide written notice to the mortgagor that in no case may private mortgage insurance be required beyond the date that is the midpoint of the amortization period of the loan, if the mortgagor is current on payments required by the terms of the residential mortgage.

(3) ANNUAL DISCLOSURES.—If private mortgage insurance is required in connection with a residential mortgage transaction, the servicer shall disclose to the mortgagor in each such transaction in an annual written statement—

(A) the rights of the mortgagor under this Act to cancellation or termination of the private mortgage insurance requirement; and

(B) an address and telephone number that the mortgagor may use to contact the servicer to determine whether the mortgagor may cancel the private mortgage insurance.

(4) APPLICABILITY.—Paragraphs (1) through (3) shall apply with respect to each residential mortgage transaction consummated on or after the date that is 1 year after the date of enactment of this Act.

(b) DISCLOSURES FOR EXISTING MORTGAGES.—If private mortgage insurance was required in connection with a residential mortgage entered into at any time before the effective date of this Act, the servicer shall disclose to the mortgagor in each such transaction in an annual written statement—

(1) that the private mortgage insurance may, under certain circumstances, be canceled by the mortgagor (with the consent of the mortgagee or in accordance with applicable State law); and

(2) an address and telephone number that the mortgagor may use to contact the servicer to determine whether the mortgagor may cancel the private mortgage insurance.

(c) INCLUSION IN OTHER ANNUAL NOTICES.—The information and disclosures required under subsection (b) and paragraphs (1)(B) and (3) of subsection (a) may be provided on the annual disclosure relating to the escrow account made as required under the Real Estate Settlement Procedures Act of 1974, or as part of the annual disclosure of interest payments made pursuant to Internal Revenue Service regulations, and on a form promulgated by the Internal Revenue Service for that purpose.

(d) STANDARDIZED FORMS.—The mortgagee or servicer may use standardized forms for the provision of disclosures required under this section.

#### SEC. 5. NOTIFICATION UPON CANCELLATION OR TERMINATION.

(a) IN GENERAL.—Not later than 30 days after the date of cancellation or termination of a private mortgage insurance requirement in accordance with this Act, the servicer shall notify the mortgagor in writing—

(1) that the private mortgage insurance has terminated and that the mortgagor no longer has private mortgage insurance; and

(2) that no further premiums, payments, or other fees shall be due or payable by the mortgagor in connection with the private mortgage insurance.

(b) NOTICE OF GROUNDS.—

(1) IN GENERAL.—If a servicer determines that a mortgage did not meet the requirements for termination or cancellation of private mortgage insurance under subsection (a) or (b) of section 3, the servicer shall provide written notice to the mortgagor of the grounds relied on to make the determination (including the results of any appraisal used to make the determination).

(2) TIMING.—Notice required by paragraph (1) shall be provided—

(A) with respect to cancellation of private mortgage insurance under section 3(a), not later than 30 days after the later of—

(i) the date on which a request is received under section 3(a)(1); or

(ii) the date on which the mortgagor satisfies any evidence and certification requirements under section 3(a)(3); and

(B) with respect to termination of private mortgage insurance under section 3(b), not later than 30 days after the scheduled termination date.

#### SEC. 6. DISCLOSURE REQUIREMENTS FOR LENDER PAID MORTGAGE INSURANCE.

(a) DEFINITIONS.—For purposes of this section—

(1) the term "borrower paid mortgage insurance" means private mortgage insurance

that is required in connection with a residential mortgage transaction, payments for which are made by the borrower;

(2) the term "lender paid mortgage insurance" means private mortgage insurance that is required in connection with a residential mortgage transaction, payments for which are made by a person other than the borrower; and

(3) the term "loan commitment" means a prospective mortgagee's written confirmation of its approval, including any applicable closing conditions, of the application of a prospective mortgagor for a residential mortgage loan.

(b) EXCLUSION.—Sections 3 through 5 do not apply in the case of lender paid mortgage insurance.

(c) NOTICES TO MORTGAGOR.—In the case of lender paid mortgage insurance that is required in connection with a residential mortgage or a residential mortgage transaction—

(1) not later than the date on which a loan commitment is made for the residential mortgage transaction, the prospective mortgagee shall provide to the prospective mortgagor a written notice—

(A) that lender paid mortgage insurance differs from borrower paid mortgage insurance, in that lender paid mortgage insurance may not be canceled by the mortgagor, while borrower paid mortgage insurance could be canceled by the mortgagor in accordance with section 3(a) of this Act, and could automatically terminate on the termination date in accordance with section 3(b) of this Act;

(B) that lender paid mortgage insurance—

(i) usually results in a residential mortgage having a higher interest rate than it would in the case of borrower paid mortgage insurance; and

(ii) terminates only when the residential mortgage is refinanced, paid off, or otherwise terminated; and

(C) that lender paid mortgage insurance and borrower paid mortgage insurance both have benefits and disadvantages, including a generic analysis of the differing costs and benefits of a residential mortgage in the case lender paid mortgage insurance versus borrower paid mortgage insurance over a 10-year period, assuming prevailing interest and property appreciation rates;

(D) that lender paid mortgage insurance may be tax-deductible for purposes of Federal income taxes, if the mortgagor itemizes expenses for that purpose; and

(2) not later than 30 days after the termination date that would apply in the case of borrower paid mortgage insurance, the servicer shall provide to the mortgagor a written notice indicating that the mortgagor may wish to review financing options that could eliminate the requirement for private mortgage insurance in connection with the residential mortgage forms.

(d) STANDARD FORMS.—The servicer of a residential mortgage may develop and use a standardized form or forms for the provision of notices to the mortgagor, as required under subsection (c).

#### SEC. 7. FEES FOR DISCLOSURES.

No fee or other cost may be imposed on any mortgagor with respect to the provision of any notice or information to the mortgagor pursuant to this Act.

#### SEC. 8. CIVIL LIABILITY.

(a) IN GENERAL.—Any servicer, mortgagee, or mortgage insurer that violates a provision of this Act shall be liable to each mortgagor to whom the violation relates for—

(1) in the case of an action by an individual, or a class action in which the liable party is not subject to section 10, any actual

damages sustained by the mortgagor as a result of the violation, including interest (at a rate determined by the court) on the amount of actual damages, accruing from the date on which the violation commences;

(2) in the case of—

(A) an action by an individual, such statutory damages as the court may allow, not to exceed \$2,000; and

(B) in the case of a class action—

(i) in which the liable party is subject to section 10, such amount as the court may allow, except that the total recovery under this subparagraph in any class action or series of class actions arising out of the same violation by the same liable party shall not exceed the lesser of \$500,000 or 1 percent of the net worth of the liable party, as determined by the court; and

(ii) in which the liable party is not subject to section 10, such amount as the court may allow, not to exceed \$1000 as to each member of the class, except that the total recovery under this subparagraph in any class action or series of class actions arising out of the same violation by the same liable party shall not exceed the lesser of \$500,000 or 1 percent of the gross revenues of the liable party, as determined by the court;

(3) costs of the action; and

(4) reasonable attorney fees, as determined by the court.

(b) **TIMING OF ACTIONS.**—No action may be brought by a mortgagor under subsection (a) later than 2 years after the date of the discovery of the violation that is the subject of the action.

(c) **LIMITATIONS ON LIABILITY.**—

(1) **IN GENERAL.**—With respect to a residential mortgage transaction, the failure of a servicer to comply with the requirements of this Act due to the failure of a mortgage insurer or a mortgagee to comply with the requirements of this Act, shall not be construed to be a violation of this Act by the servicer.

(2) **RULE OF CONSTRUCTION.**—Nothing in paragraph (1) shall be construed to impose any additional requirement or liability on a mortgage insurer, a mortgagee, or a holder of a residential mortgage.

### SEC. 9. EFFECT ON OTHER LAWS AND AGREEMENTS.

(a) **EFFECT ON STATE LAW.**—

(1) **IN GENERAL.**—With respect to any residential mortgage or residential mortgage transaction consummated after the effective date of this Act, and except as provided in paragraph (2), the provisions of this Act shall supersede any provisions of the law of any State relating to requirements for obtaining or maintaining private mortgage insurance in connection with residential mortgage transactions, cancellation or automatic termination of such private mortgage insurance, any disclosure of information addressed by this Act, and any other matter specifically addressed by this Act.

(2) **CONTINUED APPLICATION OF CERTAIN PROVISIONS.**—This Act does not supersede any provision of the law of a State in effect on or before September 1, 1989, pertaining to the termination of private mortgage insurance or other mortgage guaranty insurance, to the extent that such law requires termination of such insurance at an earlier date or when a lower mortgage loan principal balance is achieved than as provided in this Act.

(b) **EFFECT ON OTHER AGREEMENTS.**—The provisions of this Act shall supersede any conflicting provision contained in any agreement relating to the servicing of a residential mortgage loan entered into by the Federal National Mortgage Association, the Fed-

eral Home Loan Mortgage Corporation, or any private investor or note holder (or any successors thereto).

### SEC. 10. ENFORCEMENT.

(a) **IN GENERAL.**—Compliance with the requirements imposed under this Act shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act—

(A) by the appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act) in the case of insured depository institutions (as defined in section 3(c)(2) of such Act);

(B) by the Federal Deposit Insurance Corporation in the case of depository institutions described in clause (i), (ii), or (iii) of section 19(b)(1)(A) of the Federal Reserve Act that are not insured depository institutions (as defined in section 3(c)(2) of the Federal Deposit Insurance Act); and

(C) by the Director of the Office of Thrift Supervision in the case of depository institutions described in clause (v) and or (vi) of section 19(b)(1)(A) of the Federal Reserve Act that are not insured depository institutions (as defined in section 3(c)(2) of the Federal Deposit Insurance Act);

(2) the Federal Credit Union Act, by the National Credit Union Administration Board in the case of depository institutions described in clause (iv) of section 19(b)(1)(A) of the Federal Reserve Act; and

(3) part C of title V of the Farm Credit Act of 1971 (12 U.S.C. 2261 et seq.), by the Farm Credit Administration in the case of an institution that is a member of the Farm Credit System.

(b) **ADDITIONAL ENFORCEMENT POWERS.**—

(1) **VIOLATION OF THIS ACT TREATED AS VIOLATION OF OTHER ACTS.**—For purposes of the exercise by any agency referred to in subsection (a) of such agency's powers under any Act referred to in such subsection, a violation of a requirement imposed under this Act shall be deemed to be a violation of a requirement imposed under that Act.

(2) **ENFORCEMENT AUTHORITY UNDER OTHER ACTS.**—In addition to the powers of any agency referred to in subsection (a) under any provision of law specifically referred to in such subsection, each such agency may exercise, for purposes of enforcing compliance with any requirement imposed under this Act, any other authority conferred on such agency by law.

(c) **ENFORCEMENT AND REIMBURSEMENT.**—In carrying out its enforcement activities under this section, each agency referred to in subsection (a) shall—

(1) notify the mortgagee or servicer of any failure of the mortgagee or servicer to comply with 1 or more provisions of this Act;

(2) with respect to each such failure to comply, require the mortgagee or servicer, as applicable, to correct the account of the mortgagor to reflect the date on which the mortgage insurance should have been canceled or terminated under this Act; and

(3) require the mortgagee or servicer, as applicable, to reimburse the mortgagor in an amount equal to the total unearned premiums paid by the mortgagor after the date on which the obligation to pay those premiums ceased under this Act.

### SEC. 11. CONSTRUCTION.

Nothing in this Act shall be construed to impose any requirement for private mortgage insurance in connection with a residential mortgage transaction.

### SEC. 12. EFFECTIVE DATE.

This Act, other than section 13, shall become effective 1 year after the date of enactment of this Act.

### SEC. 13. ABOLISHMENT OF THE THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD.

(a) **IN GENERAL.**—Effective at the end of the 3-month period beginning on the date of enactment of this Act, the Thrift Depositor Protection Oversight Board established under section 21A of the Federal Home Loan Bank Act (hereafter in this section referred to as the "Oversight Board") is hereby abolished.

(b) **DISPOSITION OF AFFAIRS.**—

(1) **POWER OF CHAIRPERSON.**—Effective on the date of enactment of this Act, the Chairperson of the Oversight Board (or the designee of the Chairperson) may exercise on behalf of the Oversight Board any power of the Oversight Board necessary to settle and conclude the affairs of the Oversight Board.

(2) **AVAILABILITY OF FUNDS.**—Funds available to the Oversight Board shall be available to the Chairperson of the Oversight Board to pay expenses incurred in carrying out paragraph (1).

(c) **SAVINGS PROVISION.**—

(1) **EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.**—No provision of this section shall be construed as affecting the validity of any right, duty, or obligation of the United States, the Oversight Board, the Resolution Trust Corporation, or any other person that—

(A) arises under or pursuant to the Federal Home Loan Bank Act, or any other provision of law applicable with respect to the Oversight Board; and

(B) existed on the day before the abolishment of the Oversight Board in accordance with subsection (a).

(2) **CONTINUATION OF SUITS.**—No action or other proceeding commenced by or against the Oversight Board with respect to any function of the Oversight Board shall abate by reason of the enactment of this section.

(3) **LIABILITIES.**—

(A) **IN GENERAL.**—All liabilities arising out of the operation of the Oversight Board during the period beginning on August 9, 1989, and the date that is 3 months after the date of enactment of this Act shall remain the direct liabilities of the United States.

(B) **NO SUBSTITUTION.**—The Secretary of the Treasury shall not be substituted for the Oversight Board as a party to any action or proceeding referred to in subparagraph (A).

(4) **CONTINUATIONS OF ORDERS, RESOLUTIONS, DETERMINATIONS, AND REGULATIONS PERTAINING TO THE RESOLUTION FUNDING CORPORATION.**—

(A) **IN GENERAL.**—All orders, resolutions, determinations, and regulations regarding the Resolution Funding Corporation shall continue in effect according to the terms of such orders, resolutions, determinations, and regulations until modified, terminated, set aside, or superseded in accordance with applicable law if such orders, resolutions, determinations, or regulations—

(i) have been issued, made, and prescribed, or allowed to become effective by the Oversight Board, or by a court of competent jurisdiction, in the performance of functions transferred by this section; and

(ii) are in effect at the end of the 3-month period beginning on the date of enactment of this section.

(B) **ENFORCEABILITY OF ORDERS, RESOLUTIONS, DETERMINATIONS, AND REGULATIONS BEFORE TRANSFER.**—Before the effective date of the transfer of the authority and duties of the Resolution Funding Corporation to the Secretary of the Treasury under subsection (d), all orders, resolutions, determinations, and regulations pertaining to the Resolution

Funding Corporation shall be enforceable by and against the United States.

(C) ENFORCEABILITY OF ORDERS, RESOLUTIONS, DETERMINATIONS, AND REGULATIONS AFTER TRANSFER.—On and after the effective date of the transfer of the authority and duties of the Resolution Funding Corporation to the Secretary of the Treasury under subsection (d), all orders, resolutions, determinations, and regulations pertaining to the Resolution Funding Corporation shall be enforceable by and against the Secretary of the Treasury.

(d) TRANSFER OF THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD AUTHORITY AND DUTIES OF RESOLUTION FUNDING CORPORATION TO SECRETARY OF THE TREASURY.—Effective at the end of the 3-month period beginning on the date of enactment of this Act, the authority and duties of the Oversight Board under sections 21A(a)(6)(I) and 21B of the Federal Home Loan Bank Act are transferred to the Secretary of the Treasury (or the designee of the Secretary).

(e) MEMBERSHIP OF THE AFFORDABLE HOUSING ADVISORY BOARD.—Effective on the date of enactment of this Act, section 14(b)(2) of the Resolution Trust Corporation Completion Act (12 U.S.C. 1831q note) is amended—

(1) by striking subparagraph (C); and  
(2) by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively.

(f) TIME OF MEETINGS OF THE AFFORDABLE HOUSING ADVISORY BOARD.—

(1) IN GENERAL.—Section 14(b)(6)(A) of the Resolution Trust Corporation Completion Act (12 U.S.C. 1831q note) is amended—

(A) by striking “4 times a year, or more frequently if requested by the Thrift Depositor Protection Oversight Board or” and inserting “2 times a year or at the request of”; and

(B) by striking the second sentence.

(2) CLERICAL AMENDMENT.—Section 14(b)(6)(A) of the Resolution Trust Corporation Completion Act (12 U.S.C. 1831q note) is amended, in the subparagraph heading, by striking “AND LOCATION”.

Amend the title so as to read: “A bill to require automatic cancellation and notice of cancellation rights with respect to private mortgage insurance which is required as a condition for entering into a residential mortgage transaction, to abolish the Thrift Depositor Protection Oversight Board, and for other purposes.”.

#### THE FEDERAL JUDICIARY PROTECTION ACT OF 1997

##### FAIRCLOTH AMENDMENT NO. 1624

Mr. SESSION (for Mr. FAIRCLOTH) proposed an amendment to the bill (S. 1189) to increase the criminal penalties for assaulting or threatening Federal judges, their family members, and other public servants, and for other purposes; as follows:

On page 2, line 6, strike “8” and insert “12”.

#### INDIAN CLAIMS COMMISSION LEGISLATION

##### MURKOWSKI AMENDMENT NO. 1625

Mr. SESSION (for Mr. MURKOWSKI) proposed an amendment to the bill

(H.R. 1604) to provide for the division, use, and distribution of judgment funds of the Ottawa and Chippewa Indians of Michigan pursuant to dockets, numbered 18-E, 58, 364, and 18-R before the Indian Claims Commission; as follows:

At the appropriate place, insert:

#### SECTION 1. FINDINGS.

Congress finds that—

(1) the execution of more than 1 contract or compact between an Alaska native village or regional or village corporation in the Ketchikan Gateway Borough and the Secretary to provide for health care services in an area with a small population leads to duplicative and wasteful administrative costs; and

(2) incurring the wasteful costs referred to in paragraph (1) leads to decrease in the quality of health care that is provided to Alaska Natives in an affected area.

#### SECTION 2. DEFINITIONS.

In this Act:

(1) ALASKA NATIVE.—The term “Alaska Native” has the meaning given the term “Native” in section 3(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(b)).

(2) ALASKA NATIVE VILLAGE OR REGIONAL OR VILLAGE CORPORATION.—The term “Alaska native village or regional or village corporation” means an Alaska native village or regional or village corporation defined in, or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

(3) CONTRACT; COMPACT.—The terms “contract” and “compact” mean a self-determination contract and a self-governance compact as these terms are defined in the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

(4) SECRETARY.—The term “Secretary” means the Secretary of Health and Human Services.

#### SEC. 3. LIMITATION.

(a) IN GENERAL.—The Secretary shall take such action as may be necessary to ensure that, in considering a renewal of a contract or compact, or signing of a new contract or compact for the provision of health care services in the Ketchikan Gateway Borough, there will be only one contract or compact in effect.

(b) CONSIDERATION.—In any case in which the Secretary, acting through the Director of the Indian Health Service, is required to select from more than 1 application for a contract or compact described in subsection (a), in awarding the contract or compact, the Secretary shall take into consideration—

(1) the ability and experience of the applicant;

(2) the potential for the applicant to acquire and develop the necessary ability; and

(3) the potential for growth in the health care needs of the covered borough.

#### INOUE AMENDMENTS NOS. 1626–1627

Mr. SESSIONS (for Mr. INOUE) proposed two amendments to the bill, H.R. 1604, supra; as follows:

##### AMENDMENT NO. 1626

In section 11, strike the section heading and all that follows through “The eligibility” and insert the following:

#### “SEC. 11. TREATMENT OF FUNDS IN RELATION TO OTHER LAWS.

“(a) APPLICABILITY OF PUBLIC LAW 93-134.—All funds distributed under this Act or any plan approved in accordance with this Act,

including interest and investment income that accrues on those funds before or while those funds are held in trust, shall be subject to section 7 of Public Law 93-134 (87 Stat. 468).

“(b) TREATMENT OF FUNDS WITH RESPECT TO CERTAIN FEDERAL ASSISTANCE.—The eligibility”.

##### AMENDMENT NO. 1627

On page 2, line 7, of Section 2, delete the word “Tribe” and insert the word “Band”.

#### THE TELEMARKETING FRAUD PREVENTION ACT OF 1997

##### LEAHY AMENDMENT NO. 1628

Mr. SESSIONS (for Mr. LEAHY) proposed an amendment to the bill (H.R. 1847) to improve the criminal law relating to fraud against consumers; as follows:

At the appropriate place, insert the following new section:

#### SEC. . FALSE ADVERTISING OR MISUSE OF NAME TO INDICATE UNITED STATES MARSHALS SERVICE.

Section 709 of title 18, United States Code, is amended by inserting after the thirteenth undesignated paragraph the following:

“Whoever, except with the written permission of the Director of the United States Marshals Service, knowingly uses the words ‘United States Marshals Service’, ‘U.S. Marshals Service’, ‘United States Marshal’, ‘U.S. Marshal’, ‘U.S.M.S.’, or any colorable imitation of any such words, or the likeness of a United States Marshals Service badge, logo, or insignia on any item of apparel, in connection with any advertisement, circular, book, pamphlet, software, or other publication, or any play, motion picture, broadcast, telecast, or other production, in a manner that is reasonably calculated to convey the impression that the wearer of the item of apparel is acting pursuant to the legal authority of the United States Marshals Service, or to convey the impression that such advertisement, circular, book, pamphlet, software, or other publication, or such play, motion picture, broadcast, telecast, or other production, is approved, endorsed, or authorized by the United States Marshals Service;”.

##### HARKIN AMENDMENT NO. 1629

Mr. SESSIONS (for Mr. HARKIN) proposed an amendment to the bill, H.R. 1847, supra; as follows:

At the appropriate place, add the following:

#### SEC. . DISCLOSURE OF CERTAIN RECORDS FOR INVESTIGATIONS OF TELEMARKETING FRAUD.

Section 2703(c)(1)(B) of title 18, United States Code, is amended—

(1) by striking out “or” at the end of clause (ii);

(2) by striking out the period at the end of clause (iii) and inserting in lieu thereof “; or”; and

(3) by adding at the end the following:  
“(iv) submits a formal written request relevant to a law enforcement investigation concerning telemarketing fraud for the name, address, and place of business of a subscriber or customer of such provider, which subscriber or customer is engaged in telemarketing (as such term is in section 2325 of this title).”.

**THE SENIOR CITIZEN HOME EQUITY PROTECTION ACT HOUSING PROGRAMS EXTENSION ACT OF 1997**

**D'AMATO AMENDMENT NO. 1630**

Mr. SESSIONS (for Mr. D'AMATO) proposed an amendment to the bill (S. 562) to amend section 255 of the National Housing Act to prevent the funding of unnecessary or excessive costs for obtaining a home equity conversion mortgage; as follows:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Senior Citizen Home Equity Protection Act".

**TITLE I—SENIOR CITIZEN HOME EQUITY PROTECTION**

**SEC. 101. DISCLOSURE REQUIREMENTS; PROHIBITION OF FUNDING OF UNNECESSARY OR EXCESSIVE COSTS.**

Section 255(d) of the National Housing Act (12 U.S.C. 1715z-20(d)) is amended—

(1) in paragraph (2)—

(A) in subparagraph (B), by striking "and" at the end;

(B) by redesignating subparagraph (C) as subparagraph (D); and

(C) by inserting after subparagraph (B) the following:

"(C) has received full disclosure of all costs to the mortgagor for obtaining the mortgage, including any costs of estate planning, financial advice, or other related services; and";

(2) in paragraph (9)(F), by striking "and"; (3) in paragraph (10), by striking the period at the end and inserting "; and"; and

(4) by adding at the end the following:

"(11) have been made with such restrictions as the Secretary determines to be appropriate to ensure that the mortgagor does not fund any unnecessary or excessive costs for obtaining the mortgage, including any costs of estate planning, financial advice, or other related services.".

**SEC. 102. IMPLEMENTATION.**

(a) NOTICE.—The Secretary of Housing and Urban Development shall, by interim notice, implement the amendments made by section 101 in an expeditious manner, as determined by the Secretary. Such notice shall not be effective after the date of the effectiveness of the final regulations issued under subsection (b).

(b) REGULATIONS.—The Secretary shall, not later than the expiration of the 90-day period beginning on the date of the enactment of this Act, issue final regulations to implement the amendments made by section 101. Such regulations shall be issued only after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2) and (b)(3)(B) of such section).

**TITLE II—TEMPORARY EXTENSION OF PUBLIC HOUSING AND SECTION 8 RENTAL ASSISTANCE PROVISIONS**

**SEC. 201. PUBLIC HOUSING CEILING RENTS AND INCOME ADJUSTMENTS AND PREFERENCES FOR ASSISTED HOUSING.**

Section 402(f) of The Balanced Budget Downpayment Act, I (42 U.S.C. 1437aa note) is amended by striking "and 1997" and inserting ", 1997, and 1998".

**SEC. 202. PUBLIC HOUSING DEMOLITION AND DISPOSITION.**

Section 1002(d) of the Emergency Supplemental Appropriations for Additional Dis-

aster Assistance, for Anti-terrorism Initiatives, for Assistance in the Recovery from the Tragedy that Occurred at Oklahoma City, and Rescissions Act, 1995 (42 U.S.C. 1437c note) is amended by striking "September 30, 1997" and inserting "September 30, 1998".

**SEC. 203. PUBLIC HOUSING FUNDING FLEXIBILITY AND MIXED-FINANCE DEVELOPMENTS.**

(a) EXTENSION OF AUTHORITY.—Section 201(a)(2) of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996 (42 U.S.C. 1437l note) is amended to read as follows:

"(2) APPLICABILITY.—Section 14(q) of the United States Housing Act of 1937 shall be effective only with respect to assistance provided from funds made available for fiscal year 1998 or any preceding fiscal year, except that the authority in the first sentence of section 14(q)(1) of that Act to use up to 10 percent of the allocation of certain funds for any operating subsidy purpose shall not apply to amounts made available for fiscal year 1998."

(b) MIXED FINANCE.—Section 14(q)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437l(q)(1)) is amended by inserting after the first sentence the following: "Such assistance may involve the drawdown of funds on a schedule commensurate with construction draws for deposit into an interest earning escrow account to serve as collateral or credit enhancement for bonds issued by a public agency for the construction or rehabilitation of the development."

**SEC. 204. MINIMUM RENTS.**

Section 402(a) of The Balanced Budget Downpayment Act, I (Public Law 104-99; 110 Stat. 40) is amended in the matter preceding paragraph (1) by striking "fiscal year 1997" and inserting "fiscal years 1997 and 1998".

**SEC. 205. PROVISIONS RELATING TO SECTION 8 RENTAL ASSISTANCE PROGRAM.**

Section 203(d) of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996 (as contained in section 101(e) of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Public Law 104-134)) (42 U.S.C. 1437f note) is amended by striking "and 1997" and inserting ", 1997, and 1998".

**TITLE III—REAUTHORIZATION OF FEDERALLY ASSISTED MULTIFAMILY RENTAL HOUSING PROVISIONS**

**SEC. 301. MULTIFAMILY HOUSING FINANCE PILOT PROGRAMS.**

Section 542 of the Housing and Community Development Act of 1992 (12 U.S.C. 1707 note) is amended—

(1) in subsection (b)(5), by inserting before the period at the end of the first sentence the following: ", and not more than an additional 15,000 units during fiscal year 1998"; and

(2) in the first sentence of subsection (c)(4)—

(A) by striking "and" and inserting a comma; and

(B) by inserting before the period at the end the following: ", and not more than an additional 15,000 units during fiscal year 1998".

**SEC. 302. HUD DISPOSITION OF MULTIFAMILY HOUSING.**

Section 204 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997 (12 U.S.C. 1715z-11a) is amended by inserting after "owned by the Secretary" the

following: ", including the provision of grants and loans from the General Insurance Fund for the necessary costs of rehabilitation or demolition,".

**SEC. 303. MULTIFAMILY MORTGAGE AUCTIONS.**

Section 221(g)(4)(C) of the National Housing Act (12 U.S.C. 1715(g)(4)(C)) is amended—

(1) in the first sentence of clause (viii), by striking "September 30, 1996" and inserting "December 31, 2000"; and

(2) by adding at the end the following: "(ix) The authority of the Secretary to conduct multifamily auctions under this subparagraph shall be effective for any fiscal year only to the extent and in such amounts as are approved in appropriations Acts for the costs of loan guarantees (as defined in section 502 of the Congressional Budget Act of 1974), including the cost of modifying loans."

**SEC. 304. CLARIFICATION OF OWNER'S RIGHT TO PREPAY.**

(a) PREPAYMENT RIGHT.—Notwithstanding section 211 of the Housing and Community Development Act of 1987 or section 221 of the Housing and Community Development Act of 1987 (as in effect pursuant to section 604(c) of the Cranston-Gonzalez National Affordable Housing Act), subject to subsection (b), with respect to any project that is eligible low-income housing (as that term is defined in section 229 of the Housing and Community Development Act of 1987)—

(1) the owner of the project may prepay, and the mortgagee may accept prepayment of, the mortgage on the project, and

(2) the owner may request voluntary termination of a mortgage insurance contract with respect to such project and the contract may be terminated notwithstanding any requirements under sections 229 and 250 of the National Housing Act.

(b) CONDITIONS.—Any prepayment of a mortgage or termination of an insurance contract authorized under subsection (a) may be made—

(1) only to the extent that such prepayment or termination is consistent with the terms and conditions of the mortgage or mortgage insurance contract for the project; and

(2) only if owner of the project involved agrees not to increase the rent charges for any dwelling unit in the project during the 60-day period beginning upon such prepayment or termination.

**TITLE IV—REAUTHORIZATION OF RURAL HOUSING PROGRAMS**

**SEC. 401. HOUSING IN UNDERSERVED AREAS PROGRAM.**

The first sentence of section 509(f)(4)(A) of the Housing Act of 1949 (42 U.S.C. 1479(f)(4)(A)) is amended by striking "fiscal year 1997" and inserting "fiscal years 1997, 1998, and 1999".

**SEC. 402. HOUSING AND RELATED FACILITIES FOR ELDERLY PERSONS AND FAMILIES AND OTHER LOW-INCOME PERSONS AND FAMILIES.**

(a) AUTHORITY TO MAKE LOANS.—Section 515(b)(4) of the Housing Act of 1949 (42 U.S.C. 1485(b)(4)) is amended by striking "September 30, 1997" and inserting "September 30, 1999".

(b) SET-ASIDE FOR NONPROFIT ENTITIES.—The first sentence of section 515(w)(1) of the Housing Act of 1949 (42 U.S.C. 1485(w)(1)) is amended by striking "fiscal year 1997" and inserting "fiscal years 1997, 1998, and 1999".

**SEC. 403. LOAN GUARANTEES FOR MULTIFAMILY RENTAL HOUSING IN RURAL AREAS.**

Section 538 of the Housing Act of 1949 (42 U.S.C. 1490p-2) is amended—

(1) in subsection (q), by striking paragraph (2) and inserting the following:

"(2) ANNUAL LIMITATION ON AMOUNT OF LOAN GUARANTEE.—In each fiscal year, the Secretary may enter into commitments to guarantee loans under this section only to the extent that the costs of the guarantees entered into in such fiscal year do not exceed such amount as may be provided in appropriation Acts for such fiscal year."

(2) by striking subsection (t) and inserting the following:

"(t) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 1998 and 1999 for costs (as such term is defined in section 502 of the Congressional Budget Act of 1974) of loan guarantees made under this section such sums as may be necessary for such fiscal year."; and

(3) in subsection (u), by striking "1996" and inserting "1999".

**TITLE V—REAUTHORIZATION OF NATIONAL FLOOD INSURANCE PROGRAM**  
**SEC. 501. PROGRAM EXPIRATION.**

Section 1319 of the National Flood Insurance Act of 1968 (42 U.S.C. 4026) is amended by striking "September 30, 1997" and inserting "September 30, 1999".

**SEC. 502. BORROWING AUTHORITY.**

Section 1309(a)(2) of the National Flood Insurance Act of 1968 (42 U.S.C. 4016(a)(2)) is amended by striking "September 30, 1997" and inserting "September 30, 1999".

**SEC. 503. EMERGENCY IMPLEMENTATION OF PROGRAM.**

Section 1336(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4056(a)) is amended by striking "September 30, 1996" and inserting "September 30, 1999".

**SEC. 504. AUTHORIZATION OF APPROPRIATIONS FOR STUDIES.**

Subsection (c) of section 1376 of the National Flood Insurance Act of 1968 (42 U.S.C. 4127(c)) is amended to read as follows:

"(c) For studies under this title, there are authorized to be appropriated such sums as may be necessary for each of fiscal years 1998 and 1999, which shall remain available until expended."

**TITLE VI—NATIVE AMERICAN HOUSING ASSISTANCE**

**SEC. 601. SUBSIDY LAYERING CERTIFICATION.**

Section 206 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4136) is amended—

(1) by striking "certification by the Secretary" and inserting "certification by a recipient to the Secretary"; and

(2) by striking "any housing project" and inserting "the housing project involved".

**SEC. 602. INCLUSION OF HOMEBUYER SELECTION POLICIES AND CRITERIA.**

Section 207(b) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4137(b)) is amended—

(1) by striking "TENANT SELECTION.—" and inserting "TENANT AND HOMEBUYER SELECTION.—";

(2) in the matter preceding paragraph (1), by inserting "and homebuyer" after "tenant"; and

(3) in paragraph (3)(A), by inserting "and homebuyers" after "tenants".

**SEC. 603. REPAYMENT OF GRANT AMOUNTS FOR VIOLATION OF AFFORDABLE HOUSING REQUIREMENT.**

Section 209 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4139) is amended by striking "section 205(2)" and inserting "section 205(a)(2)".

**SEC. 604. UNITED STATES HOUSING ACT OF 1937.**

(a) IN GENERAL.—Section 501(b) of the Native American Housing Assistance and Self-

Determination Act of 1996 (110 Stat. 4042) is amended—

(1) by striking paragraph (4); and  
(2) by redesignating paragraphs (5) through (11) as paragraphs (4) through (10), respectively.

(b) UNITED STATES HOUSING ACT OF 1937.—Section 7 of the United States Housing Act of 1937 (42 U.S.C. 1437e) is amended by striking subsection (h).

**SEC. 605. MISCELLANEOUS.**

(a) DEFINITION OF INDIAN AREAS.—Section 4(10) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4103(10)) is amended to read as follows:

"(10) INDIAN AREA.—The term 'Indian area' means the area within which an Indian tribe or a tribally designated housing entity, as authorized by 1 or more Indian tribes, provides assistance under this Act for affordable housing."

(b) CROSS-REFERENCE.—Section 4(12)(C)(i)(II) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4103(12)(C)(i)(II)) is amended by striking "section 107" and inserting "section 705".

(c) CLARIFICATION OF CERTAIN EXEMPTIONS.—Section 101(c) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4111(c)) is amended by adding at the end the following: "This subsection applies only to rental dwelling units (other than lease-purchase dwelling units) developed under—

"(1) the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.); or  
"(2) this Act."

(d) APPLICABILITY.—Section 101(d)(1) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4111(d)(1)) is amended by inserting before the semicolon at the end the following: ", except that this paragraph only applies to rental dwelling units (other than lease-purchase dwelling units) developed under the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) or under this Act".

(e) SUBMISSION OF INDIAN HOUSING PLAN.—Section 102(a) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4112(a)) is amended—

(1) in paragraph (1), by inserting "(A)" after "(1)";

(2) in paragraph (1)(A), as so designated by paragraph (1) of this subsection, by adding "or" at the end;

(3) by striking "(2)" and inserting "(B)"; and

(4) by striking "(3)" and inserting "(2)".

(f) CLARIFICATION.—Section 103(c)(3) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4113(c)(3)) is amended by inserting "not" before "prohibited".

(g) APPLICABILITY OF PROVISIONS OF CIVIL RIGHTS.—Section 201(b)(5) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4131(b)(5)) is amended—

(1) by striking "Indian tribes" and inserting "federally recognized tribes and the tribally designated housing entities of those tribes"; and

(2) by striking "under this subsection" and inserting "under this Act".

(h) ELIGIBILITY.—Section 205(a)(1) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4135(a)(1)) is amended—

(1) in subparagraph (A), by striking "and" at the end; and

(2) by striking subparagraph (B) and inserting the following:

"(B) in the case of a contract to purchase existing housing, is made available for purchase only by a family that is a low-income family at the time of purchase;

"(C) in the case of a lease-purchase agreement for existing housing or for housing to be constructed, is made available for lease-purchase only by a family that is a low-income family at the time the agreement is entered into; and

"(D) in the case of a contract to purchase housing to be constructed, is made available for purchase only by a family that is a low-income family at the time the contract is entered into; and"

(i) TENANT SELECTION.—Section 207(b)(3)(B) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4137(b)(3)(B)) is amended by striking "of any rejected applicant of the grounds for any rejection" and inserting "to any rejected applicant of that rejection and the grounds for that rejection".

(j) AVAILABILITY OF RECORDS.—Section 208 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4138) is amended—

(1) in subsection (a), by striking "paragraph (2)" and inserting "subsection (b)"; and

(2) in subsection (b), by striking "paragraph (1)" and inserting "subsection (a)".

(k) IHP REQUIREMENT.—Section 184(b)(2) of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z-13a(b)(2)) is amended by striking "that is under the jurisdiction of an Indian tribe" and all that follows before the period at the end.

(l) AUTHORIZATION OF APPROPRIATIONS.—Section 184(i)(5)(C) of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z-13a(i)(5)(C)) is amended by striking "note" and inserting "not".

(m) ENVIRONMENTAL REVIEW UNDER THE INDIAN HOUSING LOAN GUARANTEE PROGRAM.—Section 184 of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z-13a) is amended—

(1) by redesignating subsection (k) as subsection (l); and

(2) by inserting after subsection (j) the following:

"(k) ENVIRONMENTAL REVIEW.—For purposes of environmental, review, decision-making, and action under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and any other law that furthers the purposes of that Act, a loan guarantee under this section shall—

"(1) be treated as a grant under the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.); and

"(2) be subject to the regulations promulgated by the Secretary to carry out section 105 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4115)."

(n) PUBLIC AVAILABILITY OF INFORMATION.—

(1) IN GENERAL.—Title IV of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4161 et seq.) is amended by adding at the end the following:

"SEC. 408. PUBLIC AVAILABILITY OF INFORMATION.

"Each recipient shall make any housing plan, policy, or annual report prepared by the recipient available to the general public."

(2) TABLE OF CONTENTS.—Section 1(b) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 note) is amended in the table of contents by

inserting after the item relating to section 407 the following:

"Sec. 408. Public availability of information."

(o) **NON-FEDERAL FUNDS.**—Section 520(l)(5)(B) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 11903a(l)(5)(B)) is amended by striking "and Indian housing authorities" and inserting "and units of general local government".

(p) **INELIGIBILITY OF INDIAN TRIBES.**—Section 460 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12899h-1) is amended by striking "fiscal year 1997" and inserting "fiscal year 1998".

(q) **INDIAN HOUSING EARLY CHILDHOOD DEVELOPMENT PROGRAM.**—

(1) **REPEAL.**—Section 518 of the Cranston-Gonzalez National Affordable Housing Act (12 U.S.C. 1701z-11 note) is repealed.

(2) **TECHNICAL CORRECTION.**—

(A) **IN GENERAL.**—Section 501(d)(1) of the Native American Housing Assistance and Self-Determination Act of 1996 (110 Stat. 4042), and the amendment made by that section, is repealed.

(B) **APPLICABILITY.**—Section 519 of Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 1437a-1) shall be applied and administered as if section 501(d)(1) of the Native American Housing Assistance and Self-Determination Act of 1996 (104 Stat. 4042) had not been enacted.

(3) **EFFECTIVE DATE.**—This subsection and the amendments made by this subsection shall be construed to have taken effect on October 26, 1996.

(r) **TRIBAL ELIGIBILITY UNDER THE DRUG ELIMINATION PROGRAM.**—The Public and Assisted Housing Elimination Act of 1990 (42 U.S.C. 11901 et seq.) is amended—

(1) in section 5123, by inserting "Indian tribes," after "tribally designated housing entities,";

(2) in section 5124(a)(7), by inserting ", Indian tribe," after "agency";

(3) in section 5125(a), by inserting "Indian tribe," after "entity,"; and

(4) in section 5126, by adding at the end the following:

"(6) **INDIAN TRIBE.**—The term 'Indian tribe' has the meaning given that term in section 4 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4103)."

(s) **REFERENCE IN THE PUBLIC AND ASSISTED HOUSING DRUG ELIMINATION ACT OF 1990.**—Section 5126(4)(D) of the Public and Assisted Housing Drug Elimination Act of 1990 (42 U.S.C. 11905(4)(D)) is amended by inserting "of 1996" before the period.

#### THE 50 STATES COMMEMORATIVE COIN PROGRAM ACT

##### D'AMATO (AND SARBANES) AMENDMENT NO. 1631

Mr. SESSIONS (for Mr. D'AMATO, for himself and Mr. SARBANES) proposed an amendment to the bill (S. 1228) to provide for a 10-year circulating commemorative coin program to commemorate each of the 50 States, and for other purposes; as follows:

On page 14, strike lines 4 through 10.

At the appropriate place, insert the following:

##### SEC. . RULE OF CONSTRUCTION.

Nothing in this Act or the amendments made by this Act shall be construed to evi-

dence any intention to eliminate or to limit the printing or circulation of United States currency in the \$1 denomination.

#### COATS AMENDMENT NO. 1632

Mr. SESSIONS (for Mr. COATS) proposed an amendment to the bill, S. 1228, supra; as follows:

On page 8, line 11, strike "clad".

#### THE FAA RESEARCH, ENGINEERING, AND DEVELOPMENT AUTHORIZATION ACT OF 1997

##### MCCAIN (AND HOLLINGS) AMENDMENT NO. 1633

(Ordered to lie on the table.)

Mr. SESSIONS (for Mr. MCCAIN, for himself and Mr. HOLLINGS) submitted an amendment intended to be proposed by them to the bill (H.R. 1271) to authorize the Federal Aviation Administration's research, engineering, and developing programs for fiscal years 1998 through 2000, and for other purposes; as follows:

On page 12, line 10, strike "\$229,673,00," and insert "\$226,800,000,".

On page 12, line 25, strike "\$56,045,00," and insert "\$53,759,000,".

On page 13, line 1, strike "\$27,137,00," and insert "\$26,550,000,".

On page 13, line 6, strike "activities.,"; and insert "activities; and"

On page 13, between lines 6 and 7, insert the following:

"(5) for fiscal year 1999, \$229,673,000."

On page 13, line 17, strike "leges" and insert "leges, including Historically Black Colleges and Universities and Hispanic Serving Institutions,".

On page 15, line 18, strike "NOTICE OF REPROGRAMMING," and insert "NOTICES,".

On page 15, line 19, insert "(a) REPROGRAMMING." before "IF".

On page 16, between lines 2 and 3, insert the following:

(b) **NOTICE OF REORGANIZATION.**—The Administrator of the Federal Aviation Administration shall provide notice to the Committees on Science, Transportation and Infrastructure, and Appropriations of the House of Representatives, and the Committees on Commerce, Science, and Transportation and Appropriations of the Senate, not later than 30 days before any major reorganization (as determined by the Administrator) of any program of the Federal Aviation Administration for which funds are authorized by this Act.

Amend the title so as to read "A Bill to authorize the Federal Aviation Administration's research, engineering, and development programs for fiscal years 1998 and 1999, and for other purposes."

#### ADDITIONAL STATEMENTS

##### VETERANS DAY PRESENTATION OF THE SILVER STAR MEDAL TO ALBERT SPONHEIMER, JR.

• Mr. JEFFORDS. Mr. President, on Veterans' Day, I will be participating in a very special ceremony for a very special individual. The occasion is the

presentation of a Silver Star Medal 53 years after the event to a World War II veteran named Albert Sponheimer. It gives me great pleasure to submit, for the RECORD, the text of my remarks:

The remarks follow:

##### SILVER STAR MEDAL PRESENTATION TO ALBERT SPONHEIMER, JR.

I am so proud to be here today to honor Al Sponheimer in front of his family and friends and, of course, all of you in the audience—students who are fortunate enough to witness this historic event.

This is the part of my job I love the most—the fact that we are all here today, 53 years, 5 months and 5 days after the event to witness the presentation of a Silver Star Medal for heroism. Al Sponheimer, a veteran of the Second World War, is a testament to the saying that perseverance pays off.

Al Sponheimer first contacted my office back in December 1994. In a characteristically modest manner, he asked for information about how he might get his Silver Star, in the absence of official documentation, 50 years after the fact. I could see that Al was not comfortable pursuing this, but was probably goaded into it by the four gentlemen sitting next to him today.

Anyway, back to the story. Soon after, we received a letter from Captain Heltz outlining Mr. Sponheimer's heroic actions on June 6, 1944. He wrote:

"PFC Sponheimer was one of two aides men assigned to my battery. In fact, I was his first battlefield patient. He was seen giving first aid to anyone who needed it, not necessarily Battery A personnel. He roamed almost the full length of Omaha Beach, helping where he could while many around him were wounded by flying shrapnel or ricocheting bullets fired from the Germans on the bluff of Omaha Beach"

Once the Army read this letter, I thought for sure they would send Mr. Sponheimer's medal by return mail. This was not the case. The time for consideration of WWII medal requests had expired. We had to apply to the Board for Correction of Military Records where the average length of time for consideration of these requests is about 2 years. The application was sent in on February 7, 1996. 18 months later the Board made a favorable decision—Al would finally receive his Silver Star.

And that is what brings us here today—appropriately on Armistice Day—to correct a 53-year-old record and honor a person who, under enemy fire, performed heroically.

Mr. President, thank you again for this opportunity to submit my remarks for the RECORD. I hope Mr. Sponheimer's story will inspire other veterans to pursue their entitlement to military medals or awards, even if the lapse in time seems insurmountable.

I also want to extend my condolences to the Sponheimer family at the recent and untimely passing of Al's wife, Audrey. I know her absence will be deeply felt by Al, their children and grandchildren on this special day. •

##### THE WALT DISNEY CO.: 1997 CORPORATION OF THE YEAR

• Mrs. BOXER. Mr. President, I rise today to congratulate the Walt Disney Co. for being honored as the 1997 Corporation of the Year by the Minority

Business Enterprise Input Committee of the Southern California Regional Purchasing Councils [SCRPC], a group of 225 large-scale purchasers located in a 13-county area of southern California.

Formed in 1975, SCRPC seeks to stimulate economic growth and help develop enterprises that can provide useful goods and services at competitive prices, increase employment for underemployed groups, and help bring disadvantaged enterprises into America's market economy.

The Walt Disney Co. earned this prestigious award through its leadership in working with minority-owned businesses. Disney has operated a minority and women business enterprise program for more than 15 years, and now does business with more than 900 minority-owned and 600 female-owned businesses.

This special recognition by the SCRPC reflects the high regard suppliers have for Disney's outreach and diversity policies.

It is a great pleasure to honor and recognize the initiative and leadership that has led to this outstanding honor for the Walt Disney Co.●

#### TRIBUTE TO ALBERT W. MOORE

● Mr. CHAFEE. Mr. President, I would like to pay tribute to Albert W. Moore for his leadership in a critical American industry. Mr. Moore is retiring after serving 8 years as president of the Association for Manufacturing Technology [AMT], a trade group which represents 374 American builders of machine tools and related equipment. His distinguished career in the industry has spanned 43 years.

The machine tool industry is vital to our country, making possible the production of almost every product which our society today enjoys. More important, these powerful and precise machines are a vital key to the Nation's defense.

During his tenure as president, and earlier as the elected chairman of the association, Mr. Moore has worked to ensure that the U.S. industry was technologically equal to any in the world, and that its companies are strong and well run.

Mr. Moore's efforts have greatly enhanced the position of our machine tool industry, and I congratulate him for a job well done.●

#### WELCOME HOME 452D ARMY RESERVE ORDNANCE COMPANY

● Mr. JOHNSON. Mr. President, I would like to take this opportunity to welcome home the men and women of the 452d Ordnance Company, an Army Reserve unit based in Aberdeen, SD, and congratulate them on successfully completing their recent mission to Hungary in support of Bosnian peacekeeping efforts.

The 452d is one of only six direct support ordnance units in the entire U.S. Army. The 452d is also a tier 2A high priority unit, which means that the members of this unit are well-trained, have adequate manpower, and have a high level of readiness. The men and women of the 452d pride themselves on their ability to quickly and effectively mobilize when their country calls upon them.

The 452d has an impressive history of serving the Nation. The 452d Ordnance Company was the first unit in the 6th Army to be deployed during Operation Desert Storm. The members performed extremely well during this mobilization and received the Meritorious Unit Commendation from the Secretary of the Army for their outstanding service. As you know, Mr. President, this is an extremely prestigious award with only a handful of National Guard and Reserve units having ever received it. Furthermore, the 452d was recently inspected and found to be performing at such an outstanding level that the unit is being recommended for the Meritorious Unit Commendation once again. Most units would be honored to simply be nominated for this award, and it is truly a sign of the 452d's excellence that it may receive the award twice.

In addition to helping lead coalition forces to victory in the Middle East, the 452d brought relief to many in their hometown of Aberdeen, SD, by aiding emergency management efforts in recent winter storms and flooding. The 452d is a shining example of how reserve units across the country are being called upon more frequently to serve their country both at home and abroad.

The men and women of the 452d began their most recent, and perhaps most demanding, mission in March of this year when 83 members of the unit were mobilized for duty in Europe. For the past 8 months, these individuals were stationed at Tazsar Air Base, Hungary, supporting peacekeeping efforts in Bosnia. Unit members were rotated into Bosnia from time to time, venturing inside one of the most politically volatile areas in the world.

Of course, the soldiers who were mobilized were not the only ones who sacrificed in service to their country. The families of these servicemembers also exhibited extreme courage in facing new challenges and additional responsibilities in the absence of their loved ones. To help with that transition, the 452d Family Support Group provided guidance, assistance, and support. In fact, during the Persian Gulf conflict, the 452d Family Support Group received the Best Small Unit Family Outreach Program Award from the 96th Army Reserve Command. The 452d Family Support Group met every Wednesday to discuss the ways in which they could best support family

members of the mobilized soldiers. On Saturdays, they frequently showed videos of the mobilized soldiers stationed in Hungary and provided access to e-mail for communication between soldiers and their family members.

Each and every family member deserves recognition, but at the risk of leaving someone out, I would like to mention the following officers of the 452d Family Support Group: Sandy Robinson, South Dakota Reserve Family Support leader; Ronnie Evenson, unit leader; Becky Parker, group leader; Lois Beckner, group leader; Mary Ewalt, group leader; and Donna Schulte, assistant group leader.

I would also like to mention the important service provided by the unit members who were not mobilized, but who remained in South Dakota and provided the ever-important moral support to their colleagues serving overseas. These individuals, including mechanics, administrative personnel, and others, continue to ensure that the unit is ready to serve their Nation at a moment's notice.

It is also important to recognize those employers who stood by their employees called upon to serve their nation. The commitment of employers like these allow our country to rely so heavily on its reserve and guard forces.

It is with much relief and pride that I join the family members of the 452d and all South Dakotans in welcoming the following troops safely home from their mission. It is from this service that the 452d has formed a strong bond with the community of Aberdeen and the State of South Dakota, and I thank them for their service.

Sgt. Brian Allmendinger, Spc. Joellen Allmendinger, Spc. J. Arlt, Spc. Travis Atkinson, 1st Sgt. Troy Beckner, Spc. Michael Bell, S.Sgt. Chad Bierman, Sgt. Kirk Bierschenk, Sgt. Scott Black, Pfc. Wileen Blacklance, Spc. Hollie Breitag, S.Sgt. Rodney Buck, CW2 Aaron Donat, Sgt. Eric Donat, S.Sgt. Joel Donat, S.Sgt. Mark Dunwoody, Sfc. Ronald Evenson, S.Sgt. Michael Ewalt, Sgt. Janel Fonder, Spc. Robin Freeland, Sgt. Calvin Gardner, Sgt. Chad Gardner, Sgt. Brian Grabowska, Sgt. Kevin Gustafson, Sgt. Daniel Haberling, Spc. Kristi Heintzman, S.Sgt. Brabdon Herold, Sgt. Adam Heyd, Spc. Joshua Horner, Sgt. Sean Johnson, S.Sgt. Stanley Kannas, Spc. Justin Kappes, Sgt. Daniel Karst, Sgt. Jyson Karst, S.Sgt. Daryl Kiefer, S.Sgt. Gary Kindle, Spc. Deric Knutson, Sgt. Deidra Kolb, S.Sgt. Gene Kopetsky, S.Sgt. Donald Kraemer, S.Sgt. Scott Lane, Sfc. Thomas Mailloux, S.Sgt. David Manning, Sgt. Philip Marnette, Spc. Rebecca McGannon, Pfc. Shawn Nash, Spc. John Naumann, Spc. Britt Nelson, Sgt. Jeffrey Norden, Spc. Benjamin Ochs, 1st Lt. Kritina Ochsner, Sgt. Lance Ordal, S.Sgt. Darrell Pfeifle, Sgt. Jerry Plank, Spc. Derrick Quitsch,

Spc. Jammey Rawden, CW4 Freddie Robinson, S.Sgt. Kevin Roush, S.Sgt. Jason Rydberg, Spc. Joshua Ryowski, S.Sgt. Todd Salfrank, Sgt. Robert Sayer, Sgt. Justin Scepaniak, S.Sgt. Paul Schilling, Sgt. Dawn Schlotte, 1st Lt. John Schulte, Sgt. Jeffrey Severson, Spc. Cassandra Shaffer, Sgt. Michael Stofferahn, Sgt. Kenneth Sutton, Sgt. Wade Taylor, Sgt. Tonda Thomas, S.Sgt. Terry Thue, Sgt. Joseph Thyne, WOC David Trego, S.Sgt. Chad Vetter, S.Sgt. Tamera Voss, Sgt. James Welch, Spc. Charles Willis, Sgt. Shannon Wright, and S.Sgt. Kenneth Young.●

#### INTERNATIONAL SATELLITE REFORM

● Mr. BURNS. Mr. President, in recent days, Chairman MCCAIN and I have addressed the Commerce Committee's communications agenda for next year. I expect the Communications Subcommittee, which I chair, to have an active and full slate of issues as we approach the second session of the 105th Congress.

Chairman MCCAIN and I have agreed that the Communications Subcommittee will hold a series of oversight hearings on the implementation of the Telecommunications Act of 1996. We will examine the degree to which the act has met its objectives of promoting competition and deregulation. We will examine the level of competition in the local and long-distance markets, between cable companies and alternative video providers, competition in the wireless industry and other important issues. We will devote considerable attention to interconnection issues and universal service.

I would like to address in some depth an issue that will be one of the most important issues before the Communications Subcommittee, that of international satellite reform.

The Communications Subcommittee has already begun to examine the international satellite communications market. On July 25 of this year, the subcommittee held a very informative hearing on this vital issue. We learned of the need for further changes in the regulation of the international market. We need to promote greater competition internationally while lifting unneeded regulations domestically. The issues in this debate are complex—they involve trade policy, fair treatment for those with existing investments, allocations of spectrum and orbital slots, market access, and elimination of outdated regulations.

Recently, my colleague from Hawaii, Senator INOUE, introduced S. 1328, which is virtually identical to a bill introduced earlier this year in the House by Chairman Bliley. Senator INOUE has stated that he hopes his bill will help "spur debate on this important issue." I share this hope. Senator

INOUE's bill has been referred to the Commerce Committee. I look forward to working with him and others next year to develop an appropriate international satellite policy for the future, and also to address other domestic satellite issues.

As we move forward, I am going to be guided by the principles of former President Ronald Reagan. In 1984, President Reagan signed an Executive order that effectively eliminated outdated regulations and allowed U.S.-licensed satellite companies to compete around the world. That competition has resulted in greater consumer choices, lower prices, and the ability to reach anyone anywhere in the world.

Now as we approach the turn of the century, we need to complete President Reagan's vision. The Satellite Act, which was enacted in 1962 at a time when satellites were still experimental, has become outdated. This country cannot afford to have an industry guided by rules that were created in the days of Sputnik. We need to look forward at ways to roll back unwarranted regulations and fully unleash the potential that this industry holds.

I share the goals of increasing competition, privatizing intergovernmental organizations, and enhancing market access abroad for American satellite companies. Any legislative action should be designed to promote opportunities for American businesses, while making sure they are not harmed by the very effort that seeks to enhance their ability to succeed in the international marketplace. These are extremely complex issues and there may be different paths that lead to the same goals. The approach the subcommittee will take in further exploring these issues will be balanced. We will examine in detail how best to eliminate outdated regulations, address universal service concerns, and provide for the needed flexibility to achieve an international agreement on satellite policy.

I will continue to work with the Communications Subcommittee on this critical issue. I look forward to holding further hearings, and intend to develop legislation with Chairman MCCAIN, ranking member HOLLINGS, Senator INOUE, and other committee members to establish fair rules that are competitively neutral for the international market.●

#### THE "ONE GOOD COW" PROJECT

● Mr. BAUCUS. Mr. President, I rise today to recognize the accomplishments of two outstanding Montana cattlemen, Michelle Tebay and Lisa Schmidt of Whitehall, MT.

This past year has been tough in Montana and across the West for many cattle producers. They incurred severe losses due to floods and blizzards. But thanks to the hard work and vision of

Michelle Tebay and Lisa Schmidt, hope is on the horizon. They initiated a project called "One Good Cow," and it certainly deserves our attention.

In Montana, we pride ourselves on looking out for one another—especially during challenging times. When Michelle heard about all the cattle losses Western ranchers were suffering, she contacted Lisa who works as an Ag Extension agent for Madison and Jefferson Counties. Together, the two women formulated a plan. And, that plan was to convince ranchers who survived the storms to help the less fortunate replenish their herds. The dream has become reality.

Today, the "One Good Cow" project is working to collect and transport 80,000 healthy, pregnant cows to folks who lost significant portions of their herds last winter. And the good news is that their fellow ranchers from across the Nation are donating these cattle. This teamwork has resulted in success for all. It has even gained national media attention and will be featured on national TV network news later this week.

The "One Good Cow" program is a prime example of how ranchers from all over the United States can work together in times of adversity. That shouldn't surprise anyone. Ranchers have always relied on each other as they face the worst that Mother Nature has to offer.

But the real credit goes to Michelle and Lisa. Mr. President, it is impossible to count the number of lives that will be touched by their idea. I would just like to add my voice to all the others and say "Thank you, so much, Michelle and Lisa."

I encourage all of my colleagues to become familiar with the "One Good Cow" Program and give it their full support. Our ranchers are depending on it.●

#### PROTECTION OF U.S. BORDERS

● Mr. GRAMM. Mr. President, when we convene for the second session of the 105th Congress, I will introduce legislation which will authorize the U.S. Customs Service to acquire the necessary personnel and technology to execute their duties at our international borders with Mexico and Canada. Specifically, my proposal is designed to reduce delays at border crossings to not more than 20 minutes, while maintaining—in fact, strengthening—our commitment to interdict illegal narcotics and other contraband.

In working with local officials, businesses, the Border Trade Alliance, and several of my colleagues, it has become evident that the best way to accomplish these objectives is to increase Customs staffing and provide the technological resources that can give them the best chance at accomplishing their mission. Customs staffing needs to be

increased significantly to facilitate the flow of substantially increased traffic on both the southwestern and northern borders. The practical effect of these personnel increases will be to open all the existing primary inspection lanes where congestion is a problem during peak hours and enhance investigative resources on the Southwest border.

I am very concerned about the impact on Texas and the Nation of narcotics trafficking and have worked closely with Federal and State law enforcement officials to identify and secure the necessary resources to battle the onslaught of illegal drugs. At the same time, however, our current enforcement strategy—which is burdened by insufficient staffing and a virtual absence of vital interdiction technology—is effectively closing the door to legitimate trade.

Long traffic lines at our international crossings serve no useful purpose and are counterproductive to improving our trade relationship with Mexico. At a time when NAFTA and the expanding world marketplace are making it possible for us to create more commerce, freedom, and opportunity for people on both sides of the border, it is important that we eliminate the border crossing delays that are stifling these goals.

My bill will be designed to shorten those lines and promote legitimate commerce, while providing the Customs Service with the means necessary to eliminate the drug trafficking operations that are now rampant along the 1,200-mile border that my State shares with Mexico. I will be speaking further to my colleagues about this initiative and urge their support for the bill.●

#### FAST-TRACK LEGISLATION

Mr. FEINGOLD. Mr. President, I want to offer some thoughts on the proposed fast-track legislation.

A number of other Members have made some excellent points on this subject, in large part reflecting my own views.

This is especially true of the comments made by the senior Senator from West Virginia [Mr. BYRD], and I want to commend him for his constancy on this critical issue of preserving the constitutional role of Congress in matters of trade.

He has rightly framed this issue, not as a question of favoring or opposing free or fair trade, but as a question of what role Congress plays in trade agreements.

Mr. President, the fast-track proposal we are considering, and its predecessors, are quite recent inventions.

Prior to the Tokyo round of the GATT, there was no fast-track mechanism.

In fact, of the hundreds and hundreds of trade agreements our Nation has negotiated and entered into, only five have used the fast-track procedures.

Mr. President, this should dispose of the argument that fast track is necessary for us to negotiate trade agreements.

Fast track has been the exception, not the rule, with regard to trade negotiations.

I understand this administration has negotiated and implemented over 200 trade agreements without fast track.

What were some of those agreements?

Well, Mr. President, they included: the market access agreement with Argentina for textiles and clothing; the market access agreement with Australia for textiles and clothing; the agreement on bilateral trade relations with Belarus; the market access agreement with Brazil for textiles and clothing; an agreement concerning intellectual property rights with Bulgaria; an agreement between the United States of America and the Kingdom of Cambodia on trade relations and intellectual property rights protection; the agreement on salmon and herring with Canada; the agreement on ultra-high temperature milk with Canada; the agreement on trade in softwood lumber with Canada; the agreement on intellectual property rights protection with Ecuador; a memorandum of understanding on trade in bananas with Costa Rica; several agreements with the European Union; an agreement on intellectual property rights protection with India; several dozen agreements with Japan; several dozen agreements with Korea; and many, many more agreements with dozens of other countries.

And not only bilateral agreements, Mr. President, but also multilateral agreements such as the complex Multilateral Agreement on Investment, the Information Technology Agreement, and the Telecomm Agreement—these last two having been both negotiated and implemented without fast-track procedures.

Indeed, Mr. President, the phrase “fast-track negotiating authority” is a misnomer.

The President already has the authority to negotiate and implement trade agreements.

That broad authority was most recently extended indefinitely to the President as part of the 1994 GATT Uruguay round implementing legislation.

That authority, called “Proclamation Authority,” has its roots in the Reciprocal Trade Act of 1934, which allowed a President to “enter into foreign trade agreements \* \* \* and to proclaim such modifications of existing duties and other import restrictions \* \* \* as are required or appropriate to carry out any foreign trade agreement.”

Mr. President, while the ability to negotiate and enter into international agreements are inherently part of the

President’s constitutional powers, the Constitution grants exclusive authority to Congress “to regulate Commerce with foreign nations.”

Congress has sole constitutional authority over setting tariff levels and making or changing Federal law.

With the 1934 act, though, Congress delegated some of its authority to the President when the number and frequency of trade negotiations began increasing.

It is under this “Proclamation Authority” that President Clinton has negotiated and entered into over 200 trade agreements.

And he is free to continue that work.

He did not need fast track to negotiate those agreements, and he does not need it to negotiate additional agreements.

At a recent meeting on this very issue, one of the participants suggested that everyone ought to pay a one dollar fine every time they used the phrase “fast-track negotiating authority,” because it was so fundamentally misleading.

Mr. President, the Senate might consider adopting such a rule, and if we did adopt a \$1 fine for using the phrase “fast-track negotiating authority,” we might balance the budget ahead of schedule, maybe even begin to pay down the debt.

Until we do adopt such a rule, Mr. President, we will just have to be alert to the misuse of that phrase, and correct those who employ it.

Mr. President, those who support fast track constantly make the argument that if you want free trade, you have to enact fast track.

They equate fast track with free trade.

The reason is obvious.

The arguments for free trade are powerful.

Indeed, I agree with those arguments.

We as a nation are better off in a world with freer trade than we are without it.

But the underlying premise, that we need fast track to achieve free and fair trade, is absolutely false.

Mr. President, I have referred to the hundreds of trade agreements negotiated by this Administration without fast-track procedures.

That is evidence enough.

But let me also argue that not only is fast track not necessary for free trade, it may actually undermine it.

Mr. President, one of the greatest defects of the recently enacted NAFTA and GATT agreements was the perception that those agreements picked winners and losers.

I believe strongly that those perceptions are based on reality, that some industries were huge winners in those agreements, while other industries were effectively written off.

Mr. President, Wisconsin had more than its share of those industries that

were written off, and at the top of that list, at the very top was the dairy farmer.

There is no doubt in my mind that other industries were given a higher priority than our dairy farmers, and the results of those agreements underscore that feeling.

Under the GATT, the European Union is allowed to export 20 times the amount of dairy products under subsidy that the United States is allowed to export.

Mr. President, not only did we formally provide the EU this significant advantage in that agreement with respect to dairy, apparently the EU is not even complying with those incredibly generous limitations.

The lower priority industries do not end with dairy, and while our more populous cities—Milwaukee, Madison, Green Bay—experienced serious job the fallout from the winners and losers approach extended to many smaller communities.

Even if we only use the extremely conservative statistics collected by the Department of Labor—statistics which many argue grossly understate actual job loss—smaller communities all over Wisconsin have been the victim of this winners and losers approach to trade agreements.

These include places such as: DeForest, with 40 lost jobs; Elkhorn, with 50 lost jobs; Hawkins, with 443 lost jobs; Mauston, with 48 lost jobs; Merrill, with 84 lost jobs; Montello, with 25 lost jobs; Peshtigo, with 69 lost jobs; and Platteville, with 576 lost jobs.

Mr. President, to trade negotiators whose focus was on advancing the prospects of those industries they predetermined to be winners, the losses experienced elsewhere apparently were unfortunate but acceptable.

For the communities I mentioned, Mr. President, those losses were real—real workers with real families to support.

Mr. President, the fast-track procedures under which GATT and NAFTA were negotiated and implemented invites this kind of polarization at the negotiating table.

And it is this kind of economic disparity produced by these trade agreements—the picking of winners and losers—that undermines broad public support for pursuing free trade agreements.

Mr. President, free trade ought to benefit all sectors of the economy.

Without fast-track procedures, our negotiators will know their work product will undergo rigorous congressional scrutiny.

And they will know that it will be much more difficult to enact a trade agreement that disproportionately benefits some while disadvantaging others.

Mr. President, it is this kind of trade agreement—one which benefits the entire economy—that will enhance the cause of free trade.

Mr. President, fast track also encourages another disturbing trend in trade agreements, namely advancing the short-term interests of multinational corporations over those of the average worker and consumer.

The increasing globalization of the economy confronts us every day.

Few can doubt the enormous power multinational corporations wield in trade agreements, from the negotiating table itself to the closed-door bargaining that will go on before the implementing legislation is sent to Congress.

Fast track procedures make it all the easier for those interests to advance an agreement that may include provisions which conflict with the interests of our Nation.

With opposition to the entire agreement the only alternative left to Congress, and with the considerable weight of the multinational corporate interests behind any proposal, it is likely that Congress will swallow even a deeply flawed agreement.

Mr. President, what does that do for the public support necessary for free trade?

It severely undermines it, Mr. President, and puts future trade agreements that can enhance our economy at risk. Fast track also undermines the cause of free trade in another important way, Mr. President.

The proposal we are considering partitions off a number of issues that are vital to achieving a sustainable trade agreement, including currency stability, human rights, and worker and environmental protections.

None of these issues is brought under fast-track procedures.

Mr. President, we have only to look to recent Mexican history, their political turmoil and fiscal roller coaster culminating in the peso crisis, to understand the importance of these other issues to the long-term success of any trade agreement.

Even NAFTA's most ardent supporters will concede these events severely undermined any benefits to our economy that were hoped for under that agreement.

Mr. President, one might have thought those events would have been a lesson on which we could draw.

Instead, the fast-track proposal actually backslides in this area.

And for what reason, Mr. President?

What possible reason can there be to specifically exclude these areas from fast-track procedures?

Some might suggest the reason is that while our national long-term interests could be well served by including these issues in a trade agreement to ensure a rising quality of living with our trading partners, such issues might conflict with the short-term goals of some multinational interests that look only at next year's bottom line.

Others might argue the reason stems from the desire of some interests to

pursue a race to the bottom in worker and environmental protection, and in basic human rights.

Such interests can use the leverage of international trade to change those fundamental standards they have been unable to change directly.

Mr. President, there is certainly no argument that specifically excluding these issues from fast-track procedures will enhance our ability to negotiate.

Human rights, working conditions, environmental protections—these are all great strengths of this Nation.

Preventing our trade negotiators from drawing on these great national strengths limits our flexibility at the table.

There is no reason to tie our negotiators hands in these areas.

In this important regard, the fast-track proposal we are considering is a barrier to a sustainable free trade agreement.

Mr. President, let me turn to another provision in the current fast-track proposal.

It may surprise some to know that while specific issues closely related to the long-term success and sustainability of any trade agreement are excluded, the provisions which offset the costs of any trade agreement—provisions which have absolutely no connection to the trade agreement or the willingness of our partners to negotiate with us—those funding provisions are covered by fast-track procedures.

What does this mean, Mr. President?

It means that Congress cannot amend, it cannot even strike, provisions which are attached to implementing legislation to offset the costs of the trade agreement.

It means that the most unjustified funding mechanism attached to trade implementing legislation under fast track will remain unscathed.

Mr. President, let me stress these funding provisions are not part of the trade agreement itself.

Our trading partners do not get a say in how we offset the cost of a trade agreement.

One might ask, if our trading partners have no say in the offset provisions, why are those provisions included under fast-track procedures.

An excellent question, Mr. President. Many of us will recall the GATT implementing measure which included some controversial funding provisions, including a change in the actuarial standards of the Pension Benefit Guaranty Corp. and what many viewed as a sweetheart deal for certain media giants that gave them preferential treatment with respect to FCC licenses.

Neither of those offsets had anything to do with the underlying trade agreement.

Both certainly deserved more scrutiny than they received under the constraints of fast-track procedures.

Whatever justification there may be for providing special procedures for

trade agreements, procedures which supporters argue are necessary to attract our trading partners to the table, there is no such justification for shielding the funding provisions from thorough congressional scrutiny and review.

Mr. President, we are talking about possible tax increases here.

Though not required, as I understand it, among the offsets that comply with our budget rules are tax increases.

To put it gently, it is ironic that many who would amend our Constitution to require a supermajority vote before any taxes could be increased are now prepared to support a fast-track bill that sweeps away even the most modest review of possible tax increases.

Evidently, as long as it is done in the name of free trade, even the most outrageous inconsistency is permitted.

Mr. President, let me reiterate that many of us who support free and fair trade find nothing inconsistent with that support and insisting that Congress be a full partner in approving agreements.

Indeed, as Senator BYRD has noted, support for fast-track procedures reveals a lack of confidence in the ability of our negotiators to craft a sound agreement, or a lack of confidence in the ability of Congress to weigh regional and sectoral interests against the national interest, or may simply be a desire by the administration to avoid the hard work necessary to convince Congress to support the agreements it negotiates.

Mr. President, I can think of no better insurance policy for a sound trade agreement than the prospect of a thorough Congressional review, complete with the ability to amend that agreement.

Not only would the threat of possible Congressional modification spur our negotiators to produce the best product possible, that potential for Congressional intervention could serve as an effective club in the hands of our negotiators when bargaining with our trading partners.

Mr. President, with hundreds of trade agreements negotiated and implemented without fast track, the refrain we hear again and again, that we need to enact fast track in order to negotiate trade agreements, is off key.

We do not need fast track to negotiate trade agreements.

As I have argued today, in several important ways, fast track invites bad trade agreements.

It produces agreements that pick winners and losers instead of advancing all sectors of the economy together.

It produces agreements designed to respond to the short-term interests of multinational corporations instead of fostering long-term sustainable economic growth.

It produces agreements that encourage a race-to-the-bottom in critical

areas of human rights, and worker and environmental protection, instead of improving those standards around the World.

It protects the completely unrelated funding provisions in trade implementing legislation, and as such invites enormous abuse.

Mr. President, fast track is bad for free trade.

We don't need it, and we shouldn't enact it.

I urge my colleagues to join me in opposing this legislation, and in doing so, voting for free and fair trade.●

#### TRIBUTE TO DON NOEL

● Mr. DODD. Mr. President. As 1998 rolls around, so does another election. But this upcoming campaign season will be different from any other that I have ever known. For the first time since I entered public office in 1974, a certain dapper reporter with a flower in his lapel will not be there reporting the facts of the campaign and offering his assessments. Don O. Noel, Jr., who is one of the most prominent and respected journalists in Connecticut history, has retired after working for 39 years as a political reporter in Hartford.

Don Noel's career as a journalist dates all the way back to 1958, the year that my father was elected to the first of two terms as a U.S. Senator. It is amazing for anyone to have such a long career in any field, particularly in an area as mentally, physically, and emotionally demanding as journalism.

Don Noel started out as a writer for the Hartford Times, where he worked for 17 years. For a change of pace, he ventured into television journalism and spent a decade at WFSB-TV Channel 3. He eventually returned to print journalism in 1984 when he became a political columnist for the Hartford Courant, where he stayed until his retirement.

Don Noel was an old-school reporter in the truest and best sense of the term. He was always courteous and respectful of the people he interviewed and wrote about. At the same time, he refused to skirt around difficult issues and never refrained from asking stinging questions or making pointed comments. He felt that part of his role as a journalist was to comfort the afflicted and afflict the comfortable.

Don Noel was able to succeed for so long because he was a reporter of substance who cared about the truth and cared about his readers. He understood that his role as journalist was to hold politicians accountable for their actions and to serve as a watchdog on behalf of the general public.

Don Noel did more than simply report the facts, he also interpreted them. As an editorial page writer, he was responsible for offering his opinions on the issues of the day. Not ev-

eryone agreed with his ideas, but everyone respected them because they were always thoughtful and well-developed. Most of Mr. Noel's criticisms were aimed at those who tended to be a bit more conservative, but to the end he remained an equal opportunity critic. It didn't matter if you were a Democrat, Republican, or Independent; if you were a public official and Don Noel thought that you were anything less than an upstanding public servant, it's safe to say that your name would be in the paper that week.

One of his colleagues at the Hartford Courant noted that Don Noel was an institution not because of the number of years he put into service, but how well he applied them. I strongly concur with these sentiments and believe that Don Noel was one of the finest people that I have had the pleasure of knowing during my career in politics.

While his retirement is truly a loss for the people of Connecticut, I am glad that he will finally have more time to do the things that he truly enjoys. He has said that he plans to spend a good deal of his new-found free time doing community service work in the neighborhoods of northwest Hartford, where he has volunteered for more than a decade. He also hopes to travel with his wife and have an opportunity to try other kinds of writing in which he won't have a deadline hanging over his head. Whatever he chooses to do in his retirement, I wish him only the best, and I thank him for his many years of service to the people of Connecticut.●

#### TRIBUTE TO PIETRO PARRAVANO

● Mrs. BOXER. Mr. President, today I would like to recognize Pietro Parravano, a remarkable individual who has distinguished himself not only as an outstanding commercial fisherman, but as an eloquent ambassador for the fishing industry, regionally, nationally, and abroad.

A graduate of Eastern Michigan University, Mr. Parravano was an instructor of physics before becoming an active commercial fisherman 15 years ago. Mr. Parravano sails his vessel, the F/V *Ann-B*, from the port of Half Moon Bay in northern California.

A leader in the community, Pietro Parravano has represented the fishing industry in a variety of capacities. He has served as president of the Half Moon Bay Fishermen's Marketing Association, president of the Pacific Coast Federation of Fishermen's Associations, and chair of the Institute for Fisheries Resources. He is also a member of both the Local Fisheries Impact Program and the California Seafood Council.

Mr. Parravano has often played an important role in shaping sustainable fishing policies. He was appointed by the Governor to the Bay-Delta Advisory Committee, has been elected commissioner to the San Mateo County

Harbor Commission, and will soon serve as a United States delegate to the World Forum of Fish Harvesters and Fishworkers to be held in India.

Time and again, his colleagues, the community, and the Government have trusted Pietro Parravano to represent the interests of fisher men and women.

It is my pleasure to congratulate Pietro Parravano upon receiving the 1997 Highliner of the Year Award, the fishing industry's highest honor.

Mr. Parravano is a credit to the fishing industry and to the State of California. I applaud his record of outstanding and dedicated public service and extend to him my sincerest appreciation for his commitment to sustainable fishing and the betterment of the lives of fishing men and women.●

#### THE PROSTATE CANCER RESEARCH STAMP ACT

● Mr. BURNS. Mr. President, I am pleased to join with Senator SNOWE in introducing the Prostate Cancer Research Stamp Act of 1997 and urge the support of my colleagues. S. 1389 is a companion bill to Representative SHERROD BROWN's bill, H.R. 2545, which has 41 cosponsors.

The Prostate Cancer Research Stamp Act would authorize a new first-class stamp priced at up to 8 cents above a regular first-class stamp. Postal patrons who choose to purchase the prostate cancer stamp will be contributing to prostate cancer research at the National Cancer Institute. As important, a special prostate cancer stamp will help to raise awareness of this disease, promote screening, and save lives.

Prostate cancer, the most common form of cancer in American men, will take 41,000 lives this year, nearly approaching the breast cancer death toll of 44,300. One of every eight is at risk of getting prostate cancer. Unfortunately, as the number of prostate cancer cases rises dramatically, research funding lags far behind what is needed to fight this disease. Although prostate cancer accounts for nearly 25 percent of diagnosed non-skin cancer, only 3.7 percent of Federal cancer research dollars are devoted to fighting it.

Apart from the important contribution to prostate cancer research, the prostate cancer stamp will raise awareness of this disease and help to persuade men over age 40 to have annual prostate exams. Prostate cancer is detectable, and when found early is often fully treatable through several different methods, including surgical removal of the prostate and radiation treatment. Men must demand both a PSA blood test and a digital-rectal exam as part of their annual medical exam. At the recent Senate Aging Committee hearing on prostate cancer, I commented that we men are such crybabies that we go out of our way to avoid medical tests. The women at the

hearing erupted in laughter, but the men were pretty quiet. The fact is that prostate cancer can only be treated early if it's detected early, and the long list of survivors all say that early detection made the difference.

The sooner we enact this bill and make a postage stamp available, the greater the number of men who will get tested; and more testing means more men will survive prostate cancer.●

#### THE 10TH ANNIVERSARY OF THE WETHERSFIELD TEEN THEATER COMPANY

● Mr. DODD. Mr. President. I rise today to pay tribute to the Wethersfield Teen Theater Company, which is about to celebrate its 10th anniversary. This company was founded in 1988 by 15-year-old Bill Fennelly who was frustrated by the lack of opportunities in the theater for young people in the Wethersfield area, and the name of the company that Bill created indicates what makes this group so unique and special—it is run by and for teenagers.

Whether it's the director, the choreographer, or a member of the lighting crew, every member of the company must be between the ages of 11 and 21. The company members have complete artistic control over their productions, and they are also responsible for raising money and doing publicity for each play. Not only has the Wethersfield Teen Theater given hundreds of young people an opportunity to express themselves artistically and experience the feeling of performing live on the stage; but this company also gave many young people leadership opportunities that people their age don't traditionally enjoy. People who participate in the Wethersfield Teen Theater learn lessons about personal responsibility that they will carry with them throughout their lives.

When the theater company was founded there were many doubters. Not only were people skeptical that a group of teenagers would be able to put on a quality theatrical production, there were questions about their ability to raise the money to stage a production. The Wethersfield Teen Theater put on a spring review called "On Broadway," and they were able to raise the money to stage a production of "Joseph and the Technicolor Dreamcoat."

"Joseph" was major success, and in 1990, the teen theater gained the official sponsorship of the Wethersfield Recreation and Parks Department. While the sponsorship provides the company with free rehearsal and performance space, the theater company is not a budgeted program and the teens still must earn all the money required to produce each show.

Since its founding, the Wethersfield Teen Theater Company has put on a major summer and spring production

every year. In addition, the company also sponsors children's workshops that are designed to get children interested in theater. They also perform at local community events, elementary schools, and hospitals.

For a decade, people have been enjoying the talent, enthusiasm, and creativity of the Wethersfield Teen Theater Company, and on January 3, 1998, the group will celebrate its 10th anniversary with the performance of a production called "Our Time." I am certain that this production will be a great success, and I hope that this wonderful theater company will continue enriching the lives of young people in the Wethersfield area for many decades to come.●

#### IN MEMORY OF THE Ogoni 9

● Mr. FEINGOLD. Mr. President, today I want to commemorate the anniversary of the tragic deaths of nine Nigerian activists. Two years ago this week, Mr. Ken Saro-Wiwa and eight other Ogoni leaders were brutally executed by the regime of Gen. Sani Abacha.

Ken Saro-Wiwa was a renowned playwright and author, who also happened to be the president of the Movement for the Survival of the Ogoni People, or MOSOP. He and several other colleagues were arrested shortly after four rival Ogoni leaders were killed by a mob in May 1994. They were detained without charge for a year, until May 19, 1995. Then, after trials that are widely believed to have been unfair and politically motivated, Saro-Wiwa and eight others—Barinem Kiobel, Saturday Doobee, Paul Levura, Nordu Eawo, Felix Nuate, Daniel Gbokoo, John Kpuinen and Baribor Bera—were convicted of complicity in the 1994 murders, and sentenced to death by a civil disturbances special tribunal run by the military.

Mr. President, when the death sentences of these individuals were first made public, I and many other Members of Congress asked General Abacha to have mercy and exercise his prerogative of executive clemency. We wrote to President Clinton and made calls to the Nigerian representatives to the United Nations and Washington. But, alas, our efforts were to no avail. The nine men were hanged on November 10, 1995.

Now, Mr. President, 19 other Ogoni activists remain in prison in Nigeria on the same trumped up charges and could face a similar fate. According to reports from several human rights organizations, the Ogoni 19 have been severely beaten and tortured, and many are suffering from ill health. They reportedly are kept in insanitary prison conditions, are denied food and medical treatment, and rarely, if at all, are granted access to outside visitors, including their lawyers. This lack of contact has stalled attempts to have the

detainees released on bail or brought to trial before ordinary, civilian courts. The situation is so dire that, in August, the detainees went on a hunger strike for 10 days to protest the continuing obstructions to their release or trial. The authorities reportedly have had no response.

Alas, the deplorable condition of these Ogoni activists is not unique in Nigeria. Hundreds of individuals remain in detention centers or prisons for seemingly political motivations. The flawed judicial process that led to the 1995 death sentences is still in place and threatens the lives of these political prisoners. Numerous Nigerian laws allow for arbitrary detention for reasons ranging from "personal pique by a senior official to 'national security,'" according to information provided to me by the State Department.

With a population of more than 100 million people and vast natural resources, Nigeria has the potential to be one of the most important players on the African stage. But the military junta led by General Abacha is squandering the country's future by rampant corruption, severe economic mismanagement, and brutal policies that threaten basic freedoms. Moreover, the so-called transition program bears little hope of ensuring a transition to a fairly elected civilian government.

As we remember the lives of the Ogoni 9, let us not forget those Nigerians whose struggle for basic freedoms continues even now. I hope my colleagues will join me in honoring this solemn occasion.●

#### RETIREMENT FROM CONGRESS OF REP. FLOYD H. FLAKE

● Mr. MOYNIHAN. Mr. President, Adlai E. Stevenson remarked of Eleanor Roosevelt that "She would rather light candles than curse the darkness and her glow has warmed the world." So it is with my dear friend and colleague, Representative FLOYD FLAKE of Queens, who will be retiring from Congress this Saturday, November 15. Few individuals can match his accomplishments, which have materially and spiritually benefited so many. I view his departure as bittersweet. He is going home to his church, answering God's call "to a greater ministry and to a greater work," as he has put it. Surely, his congregants will be happier for his decision. But we will sorely miss him here in Congress.

Representative FLAKE was born in Los Angeles and raised in Houston—1 of 13 children born to parents with fifth- and sixth-grade educations. Modest circumstances. But in the words of an October 19, 1997 New York Times magazine article by James Traub, "they (people who told FLAKE he would never go to college) hadn't reckoned on his mother, who taught the kids how to sew and wash and cook, or his fiercely self-improving father."

Representative FLAKE received an undergraduate degree from Wilberforce University, the first black college in America, founded in 1856 in Ohio under the auspices of the African Methodist Episcopal [A.M.E.] Church and named after the great English statesman and abolitionist, William Wilberforce. From there, on to graduate study at Payne Theological Seminary and Northeastern University and jobs early in his career as a Head Start social worker and market analyst for Xerox.

In 1976, Representative FLAKE—barely 31—became pastor of the Allen A.M.E. Church in Jamaica, Queens. At that time, the church congregation numbered about 1,200; the church's annual budget was about \$250,000. There were three employees. Now, some 20 years later, the congregation has grown to nearly 9,000 souls. The church and its subsidiaries have an annual budget exceeding \$24 million. Tithes and offerings alone exceed \$5 million—this from a mostly middle-class congregation.

When considering Reverend FLAKE's stewardship, the Parable of the Mustard Seed comes to mind. Allen A.M.E. Church-sponsored community development enterprises now include a 300-unit apartment complex for the elderly; the Allen Christian School, which has an enrollment of some 400 elementary students—and a growing waiting list; hundreds of single-family and two-family homes; a strip mall; an office complex; a home care agency; a credit union; and a transportation company. The Allen A.M.E. Church and its subsidiaries employ 800 people. Only Kennedy Airport employs more people in the Sixth District.

In the middle of this remarkable stewardship, he earned a Doctorate of Ministry degree from the United Theological Seminary in Dayton, OH, and he became a Member of Congress. He has ably represented the Sixth District, which covers southern and southeastern Queens, since 1986. As a result of his efforts, the Food and Drug Administration and the Federal Aviation Administration are building major facilities in the district. As a senior member of the House Committee on Banking and Financial Services, he has been an indefatigable architect of innovative public and private urban investment programs. While other politicians have abandoned urban communities, FLOYD FLAKE has found ways for such communities not only to survive, but to thrive. While others curse the darkness, FLOYD FLAKE lights candles.

Perhaps the capstone of his accomplishments is the new Allen A.M.E. Church cathedral on Merrick Boulevard. The \$23 million cathedral is 93,000 square feet and seats 2,500. It is the largest church structure to be built in New York City since 1954. Heinrich Heine remarked that it takes more than mere opinion to erect a cathedral,

it takes conviction. Indeed it does. Reverend Flake secured a \$15 million mortgage for the project from Chase Manhattan Bank Corp.—the largest loan Chase has ever made to a religious institution. That's conviction.

Given all of these commitments, it is understandable that FLOYD FLAKE feels he must go home and minister to his church community full-time. The community will be richer for his presence. We here will be poorer.

Mr. President, the inscription on Sir Christopher Wren's tomb in St. Paul's Cathedral reads, *Si monumentum requiris circumspice*. "If you would see the man's monument, look around." If you would see FLOYD FLAKE's monument, go to Jamaica, or to St. Alban's, or to Rosedale, or to Laurelton, or to nearly any neighborhood in Queens, and look around.

And so, to my friend, his wife Elaine, his daughters, Aliya and Nailah, and his sons, Rasheed and Hasan, I say, "Godspeed."●

#### HEROES SHINE IN NORTH DAKOTA FLOOD

● Mr. DORGAN. Mr. President, as my colleagues in the Senate are well aware, one of the Nation's worst weather-related disasters of the year was the devastating flooding in Grand Forks, ND and the entire Red River Valley. This historic flood captured the attention of the Nation in late spring as over 95 percent of the residents of Grand Forks and East Grand Forks were evacuated from their homes and much of North Dakota's second largest city's downtown district was ravaged by fire and water.

Disasters have a way of bringing out the true character of people, and that certainly was the case in North Dakota. History will have a dramatic record of the loss and devastation of the flood. I also hope that it will record the tremendous efforts made by many North Dakotans to survive and to rise to the occasion with heroic feats.

Now that a few months have passed since the waters have subsided, it is time to reflect back on some of the many heroes—people that stepped up when their community needed them—whose efforts shined despite the rising waters.

In a disaster the extreme importance of a communication system is pivotal in fighting back and preserving the safety of those in the area. Today, I would like to recognize the efforts of several US West Communications employees who worked tirelessly to maintain critical telephone service to the Grand Forks area throughout the flooding.

On April 19, 1997 a crew of nine central office technicians barricaded themselves into the US West building in the heart of Grand Forks to keep the communication systems of the area up

and running during the disaster. The extensive preventive work that the US West workers completed to get ready for the flooding would now be tested as their building was surrounded by 4 feet of water, and sat just one block away from a raging fire. The work of these men and women sustained phone service to the Federal Emergency Management Agency, Federal Aviation Administration, State and local emergency workers, and so many others in the flooded region.

To give you an idea of the challenges facing these workers, they labored night and day to keep the wires dry as 26 inches of water threatened basement cables. Sustained by the food, clothing, and cots delivered via boat by the National Guard, these folks stayed on as the area was evacuated by all other people. In light of this adversity—and armed with high-volume pumps, drying machines, and sandbags—these courageous people sustained service to 50,000 area customers and hundreds of emergency workers.

I would like to recognize these heroes by name for their dedicated service is appreciated by me and many others touched by their efforts. The members of the initial emergency team were: Denny Braaten, Linda Potucek, Larry McNamara, Bob Schrader, Dan Kaiser, Dale Andrews, Glenda Wiess, Rick Hokenson, and Lew Ellingson.

Two days later, US West reinforcements arrived to provide additional support and hard work. I would like to recognize these workers now: Don Jordan, Ray Jacobsen, Tim Kennedy, Roger Jones, Bruce Bengston, Gary Boser, Jim Falconer, Bion McNulty, Jack Olson, and Tim Rogers.

I am tremendously proud of the courage and dedicated service demonstrated by the US West employees in Grand Forks. They, along with so many others who volunteered and continue the rebuilding efforts today, exemplify the North Dakota spirit.●

#### LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION APPROPRIATIONS BILL

● Mrs. BOXER. Mr. President, the Labor, Health and Human Services, and Education appropriations bill that the Senate passed yesterday provides the National Institutes of Health and other Government health initiatives with funding needed to continue their work on diseases that afflict so many millions of Americans. I am glad to see that this budget will continue to place a priority on health research and, in particular on women's health. Although we have seen many advances in women's health over the past several years, much more progress needs to be made especially on such intractable problems as breast cancer.

The key to successful breast cancer treatment is early detection. Mammog-

raphy has been and will continue to be a key diagnostic tool in early detection for women in the high-risk category for breast cancer. Digital mammography is the next generation technology in mammography imaging for cancer, and it offers a number of advantages over the current film technology, including: improved image quality and diagnosis; improved lesion visualization; lower overall cost of image storage and retrieval; and increased use of tele-mammography as a means to facilitate expert consultations.

There is a second generation digital mammography technology on the drawing boards that offers the prospect not only of improving the ability of radiologists to identify lesions in the breast, but also of significantly reducing the cost of digital mammography. One such approach, a Metal-Halide technology, holds out the promise of meeting these goals. This technology has the potential to result in an imager that could be used to replace the film imagers in existing mammography machines—rather than needing to replace the entire mammography machine.

There are significant technical hurdles that must be overcome before a product of the necessary quality of resolution for mammography can be introduced. The research and development risk may be too great for private sector companies to move forward, thus making it ideal for a Government-industry partnership.

I urge the administration to consider addressing this issue in its fiscal year 1999 budget by creating a program that would focus on key technologies that could improve women's health. This new program could place particular emphasis on technologies that will make a significant difference for women, have a high likelihood of near-term commercial development, and are likely to see widespread and rapid diffusion throughout the medical community.

Mr. President, the war on breast cancer and many other diseases has not been won. In the private and public sectors, we must be creative in looking for new approaches to address and overcome these challenges. It does little good if we make a breakthrough in the lab or corporate research facility, if we can't bring that breakthrough to market in such a way that the maximum number of people benefit. I hope the administration will give careful consideration to these kinds of new and innovative ideas in crafting its budget for the upcoming fiscal year.●

#### TRIBUTE TO DAN VECE, SR.

● Mr. DODD. Mr. President, within every town in the country, there are a small handful of families or individuals whose achievements and contributions to their community are so extraordinary that they become as such a

part of the town's landscape as Main Street, the Court House, or City Hall. The Vece's are such a family in the town of Clinton, CT.

For decades, Vece family members have been on town boards and commissions, working on countless charity and civic events. The Vece family's contributions to town life were even honored in 1995, when the Pierson School gazebo was renamed the Vece Gazebo. But the greatest illustration of what this family meant to the vitality of this small New England shometown could be seen once a week at a local restaurant. Each Sunday from 4 to 8 p.m. for the past 16 years, a diverse group of patrons would gather at Bill's Seafood Restaurant to enjoy the music of Clinton's favorite band. The people of Clinton loved coming out and singing the songs that they all knew, but what they loved most was the band's leader—Dan Vece, Sr. What set Mr. Vece apart from other bandleaders was not the great musical skill with which he played the banjo. What made Dan Vece so special was his zest for life. That, and the fact that he was over 100 years old.

Seeing Dan Vece on stage wearing his trademark sailor's cap and picking at his 1919 Gibson banjo, served to remind countless people that life was meant to be enjoyed. He served as an inspiration to anyone who was fortunate enough to meet him. Sadly, on September 23, 1997, Dan Vece, Sr. died at the age of 101.

Dan Vece, Sr. grew up and lived in New Haven, CT until he enlisted in the Army during World War I. After being discharged from the Army, he returned to New Haven where he married his wife of 68 years, Tilly Tullo. Together they moved to Clinton in 1919, where they operated a retail plumbing store and service. In addition to his business, Mr. Vece was one of Clinton's first police officers and served as a fireman, beginning the longstanding family tradition of public service. Mr. Vece enjoyed working and didn't retire until he was 80 years old, and he continued doing odd jobs until he was 88. He played golf until he was 96, and drove a car until he was 98, transporting senior women to the grocery store. Dan Vece was involved in countless activities, but his true passion was always his music.

He had no formal musical training, but he taught himself to play most any musical instrument that he could get his hands on. His wife was a trained musician and together they formed a band with Tilly on piano and Dan on the drums. They played together at the ice shows in Clinton and all the big jobs from New Haven to New London. And after each gig, they always loved to go out dancing.

Eventually, Tilly retired from performing, but Dan carried on and fronted a band that played at restaurants and resorts along the Connecticut

shoreline, various jazz festivals, nursing homes, schools, and of course Bill's Seafood Restaurant on Sunday evenings. Whenever anyone asked why he was still performing, Mr. Vece would always say that his doctor told him that music was the best medicine and he should keep on playing as long as possible.

Well, Dan Vece followed his doctor's orders, and as a result he brought happiness into the lives of countless individuals. Dan Vece, Sr.'s good humor, devotion to his community, and remarkable vitality made him a beloved figure in Clinton and throughout Connecticut. He was loved and revered by all, and he will be dearly missed.●

#### VETERANS' BENEFITS ACT OF 1997

● Mr. ROCKEFELLER. Mr. President, as the ranking minority member of the Committee on Veterans' Affairs, I am enormously pleased that the Senate is considering S. 714, as amended, a bill that would make valuable changes to a number of veterans benefits and services. In the waning days of this session, the House and Senate Veterans' Affairs Committees were able to reach compromise on a wide range of programs and services for veterans—from programs to assist homeless veterans, to providing home loans to Native American veterans, and I urge my colleagues to give their unanimous support to this measure. It is particularly fitting that we make these improvements for veterans programs now, as Veterans Day is just a few days away.

Mr. President, because all the provisions of this measure—which I will refer to as the "compromise agreement"—are set forth in the joint explanatory statement which Senator SPECTER will place in the RECORD, I will discuss here only some of the issues which are of particular interest to me. The explanatory statement was developed in cooperation with the House Committee on Veterans' Affairs and that committee's chairman, BOB STUMP, will insert the same explanatory statement in the RECORD when the House considers this measure.

#### EXTENDING AND IMPROVING THE NATIVE AMERICAN HOUSING LOAN PILOT PROGRAM

Mr. President, section 201 of the compromise agreement will extend for four years the authority for the Native American Housing Loan Pilot Program, under section 3761, title 38, United States Code. This pilot program was created in 1993 to provide loans to eligible Native American veterans to purchase, build, or improve dwellings on Native American trust lands. This program is so important because commercial lenders will not finance the purchase of homes on Native American lands, as lenders cannot foreclose in the event of default. Therefore, the traditional VA loan guaranty program is not, in effect, available to Native

American veterans residing on tribal lands.

This program has been very successful in financing purchases of homes by Pacific Islanders. However, it has been somewhat underutilized by other Native American populations. Therefore, this bill would also provide for enhanced outreach by VA to inform Native American veterans of the availability of this program. It further tasks VA with analyzing what is working and what could be improved in its administration of the program.

I would like to commend Senators AKAKA and CAMPBELL for their tireless advocacy on behalf of Native American veterans.

#### REINVENTING VA'S EEO SYSTEM

Title I of the compromise agreement will establish a new employment discrimination complaint system of the VA. This provision ensures that the employees who perform equal employment and opportunity [EEO] counseling and investigations are professional and independent by creating a new office to adjudicate complaints, separate from line management.

The committee has had grave concerns about how VA has handled several high profile EEO complaints filed against senior staff members. Therefore, this bill also provides for VA to submit a separate report regarding complaints filed against senior level employees, based on their personal conduct. I believe it is critical that VA's actions be subject to congressional scrutiny, in order to assure accountability.

I want to thank Senator GRAHAM for his leadership on this important issue.

#### SPINA BIFIDA ELIGIBILITY CLARIFIED

Mr. President, section 404 of the compromise agreement will clarify the eligibility—for compensation, health care, and educational assistance—of the children with spina bifida born to Vietnam veterans exposed to Agent Orange. Currently, the eligibility of the child is determined by looking to the veteran father. However, under title 38 of the United States Code, a former service member who received a dishonorable discharge is generally not considered a veteran, and is therefore not eligible for veterans benefits from the VA.

It was Congress' intention to provide benefits to all Vietnam veterans' children with spina bifida. Congress did not mean to exclude the children of veterans with dishonorable discharges.

This provision will clarify the eligibility criteria to include the child with spina bifida of a Vietnam veteran regardless of the character of his discharge. This is a minor modification in the law, but to the children who suffer from spina bifida, these benefits can make a significant difference in their lives. These benefits can improve their quality of health care, provide educational opportunities, and enhance

their quality of life. It would be great injustice if these children were denied these benefits because of their father's discharge status.

#### MAMMOGRAPHY POLICY

Section 208 of the compromise agreement seeks to address a discrepancy between VA's stated principles and their clinical practice with respect to breast cancer programs. Though a guiding principle of the Veterans Health Administration states that "the quality of care in VHA must be demonstratively equal to, or better than, what is available in the local community," in my view, VHA's breast cancer detection policy fails to achieve community standards because it only targets women between the ages of 50 to 69.

Mr. President, it is very important that veterans have access to preventive diagnostic tests to protect their health. Because breast cancer is the leading cause of cancer in women, I look forward to receiving VA's national policy on breast cancer detection.

I thank Senator SPECTER for his leadership on this issue.

#### HEALTH PROFESSIONAL SCHOLARSHIP PROGRAM

Mr. President, I am pleased that the authority for the Health Professional Scholarship Program has been extended for 1 year. Aspiring health professionals have a strong interest in the scholarship program, and it has proven to be an effective recruitment tool for the VA in the past. Staffing analyses done within the VA have identified a need to increase the levels of nurse practitioners and physician assistants to adjust to the shift from inpatient to outpatient care, and this program is well suited to assist individuals in these career paths. We will continue to evaluate this program and look for other opportunities that will increase both recruitment and retention of health professionals in the VA.

#### MAJOR MEDICAL FACILITY PROJECTS CONSTRUCTION AUTHORIZATION

Of the projects authorized under title III of this bill, I am especially pleased that we have included the authorizations for projects in northern California. I have been concerned that veterans in northern California have not been receiving convenient VA health care services ever since the Martinez VA Medical Center was closed in 1991.

The conference agreement authorizes VA to move ahead with plans to create an accessible network of VA health care by specifically authorizing funds for upgrades and enhancements to McClellan Hospital at Mather Field in Sacramento and improvements to the outpatient clinics at Mare Island in Vallejo and at Martinez. Once the McClellan Hospital is completed, VA expects capacity for 55 inpatient beds and 110,000 outpatient visits per year, and the projected workload for the outpatient clinics will exceed 140,000 outpatient visits per year.

## CONCLUSION

Mr. President, in closing, I acknowledge the work of my colleagues in the House—Chairman BOB STUMP and ranking Minority Member LANE EVANS—and our Committee's Chairman, Senator SPECTER, in developing this comprehensive legislation.

Mr. President, I thank the staff who have worked extremely long and hard on this compromise—Mike Durishin, Jill Cochran, Mary Ellen McCarthy, Adam Sachs, Susan Edgerton, Carl Commenor, Pat Ryan, Mike Brinck, Ralph Ibson, Kingston Smith, Sloan Rappoport, and others on the House Committee, and Jim Gottlieb, Kim Lipsky, Mary Schoelen, Charlie Battaglia, Bill Tuerk, and John Bradley, with the Senate Committee. I also thank Bob Cover and Charlie Armstrong of the House and Senate Offices of Legislative Counsel for their excellent assistance and support in drafting this compromise agreement.●

## TRIBUTE TO BERNARD G. SEGAL

Mr. DODD. Mr. President, I rise today to pay tribute to one of the greatest lawyers in recent American history—Bernard G. Segal, who died earlier this year. Bernard Segal, who served as the president of the American Bar Association in 1969–70, was known as the conscience of the bar, and some of his colleagues said that he promoted individual rights and the rule of law more than any other lawyer of our time.

Bernard Segal's legal accomplishments began at an early age, as he was named directly out of Penn Law School to serve as deputy attorney general of Pennsylvania. At age 24, he was the youngest person to ever hold this post, but he still proceeded to write many important pieces of legislation, including the State's banking code. He left this position to be a founding partner of the Philadelphia law firm of Schnader, Harrison, Segal & Lewis. As a member of the firm, he was very successful, representing many blue-chip clients such as Bell Telephone, NBC, and United Parcel, and during his career he argued nearly 50 cases before the U.S. Supreme Court. As a result of his legal prowess, Mr. Segal was tapped to serve as the chancellor of the Philadelphia Bar and president of the American Bar Association, becoming the first Jewish man to serve in either post.

Mr. Segal continually dedicated himself to legal causes, and one of his most successful crusades was his mission to improve the selection process for federal judges. As chairman of the ABA's standing committee on the Federal Judiciary, Mr. Segal helped to persuade President Eisenhower to establish the practice of submitting prospective Federal judicial appointments to the ABA for review. In order to convince the

President of the need for this procedure, Mr. Segal asked the former general this simple question: "Would you appoint a general without asking the colonels what they thought of him?"

Bernard Segal's legal career was truly exemplary, but what made this man so extraordinary was his commitment to helping the less fortunate members of our society. Mr. Segal described the hallmark of the law firm that he helped found as its "dedication to the higher calling," that is "the lawyer's obligation to assume an active role in the pursuit of a just and ordered society, in helping to solve the emerging problems of social, economic and political importance \* \* \* to serve the public as his or her client, as she or he would serve a full-paying client."

Mr. Segal's commitment to preserving equal justice under the law for all Americans particularly shone during the civil rights movement. In the 1960's, many people in the country viewed civil rights as a Southern problem, one over which they had little influence or control. Fortunately, Bernard Segal did not share this view.

In 1963, when Alabama Governor George Wallace announced that he would disregard the Federal court order that prohibited interference with the admission of African-American students at the University of Alabama, Bernard Segal saw the need for the Nation's legal community to speak out publicly against the Governor's actions. He quickly got 46 prominent lawyers, including three former U.S. Attorneys General, to sign a public letter condemning the Governor's defiance of the law.

Shortly afterward, President Kennedy announced that he was creating a group known as the Lawyers' Committee for Civil Rights Under Law, and the President named Bernard Segal as one of the organization's two co-chairmen. This committee of 246 private lawyers helped build support for the Civil Rights Act of 1964, and its call for peaceful compliance with court orders had a persuasive impact on future integration efforts in the South.

In the wake of the civil rights movement, Bernard Segal remained socially active. President Johnson chose him to head the National Legal Service Program, which established legal services for the poor. And much like he did at his own law firm, Mr. Segal worked diligently to enlist lawyers to provide legal assistance for the indigent.

Bernard Segal's efforts did not go unrecognized. Among his many honors were the American Bar Association's Gold Medal, the National Civil Rights Award by the U.S. Attorney General, the National Human Relations Award by the National Conference of Christians and Jews, the Judge William H. Hastie Award by the NAACP Legal Defense Fund, and the World Peace Through Law Award as the "World's Greatest Lawyer."

Bernard Segal represented the highest standards and ideals of the legal profession, and all those who were fortunate enough to know this great man will miss him dearly. He is survived by his wife, Geraldine, his daughter Loretta, his son Richard, three grandchildren, one great-grandchild, his brother, and his sister. I offer my heartfelt condolences to them all.

## REAUTHORIZING THE FEDERAL AVIATION ADMINISTRATION RESEARCH, ENGINEERING AND DEVELOPMENT ACCOUNT

● Mr. GORTON. Mr. President, I want to thank my colleagues for working with me over the past few weeks, and in particular the past few days, to enact legislation to reauthorize the Federal Aviation Administration (FAA) Research, Engineering, and Development (R,E&D) account for fiscal years 1998 and 1999.

Senators MCCAIN, HOLLINGS, and FORD joined me in introducing this important legislation. The Commerce Committee recently took up the House bill and reported it out with an amendment in the nature of a substitute. The leadership of the Senate Commerce Committee and the House Science Committee have already met to resolve the differences between the House and Senate versions of the bill. I am pleased to report that the floor amendment to H.R. 1271 reflects the agreement that the conferees have reached on a final package. The House should be able to accept and approve H.R. 1271, as amended, before this session ends.

The FAA R,E&D account finances projects to improve the safety, security, capacity and efficiency of the U.S. aviation system. These significant research and development efforts include the development of new fire-resistant insulation materials for use on aircraft, the development of procedures for enhancing terminal area capacity and safety, the improvement of aircraft collision avoidance technology, and a host of other noteworthy projects.

This bill also fosters the strong public-private partnership that has been established in the aviation research and development area. The FAA, for instance, is working with Boeing to develop a world-class airport pavement testing facility. Boeing is providing one-third of the costs of this project, which total \$21 million. This project will help ensure that the U.S. keeps pace with the rest of the world in developing the infrastructure to accommodate the new super jumbo aircraft.

Again, I commend my colleagues' commitment, and their assistance with this effort.●

## TRIBUTE TO GEN. JOHN SHALIKASHVILI

● Mr. DODD. Mr. President, I rise today to pay tribute to Gen. John

Shalikashvili. His life's story is one of the greatest in our Nation's history. General Shali, as he is affectionately known, came to this country when he was 16, and after graduating from college, he was drafted into the U.S. military. During his 39 years of public service, he rose from the ranks of Army private to the highest military office in the land. He is an embodiment of the principles for which this Nation stands, and I would like to pay tribute to him on the occasion of his retirement earlier this year as the Chairman of the Joint Chiefs of Staff.

Anyone he worked with will tell you that he did a tremendous job as Chairman. During these times of military downsizing, he has been responsible for shaping a military that is smaller, but better. In order to do so, he had to ensure that our troops were better prepared and better equipped than any other force in the world. He succeeded mightily.

During his tenure as Chairman, U.S. troops were tested in more than 40 operations. In places like Bosnia, Haiti, and Iraq our troops performed superbly in their efforts to defend democracy and further the cause of peace.

General Shalikashvili's courage and bravery were unquestioned, as evidenced by the Bronze Star he earned for his combat service in the Vietnam war. But what made General Shali such an effective leader was his compassion, and his ability to understand the human element of military operations.

He was the head of the 1991 operation to provide relief to the Iraqi Kurds who had been exiled from their homes by Saddam Hussein. Thousands of men, women, and children were dying in the mountains of northern Iraq and eastern Turkey, and he helped many of these families return to their homes, personally providing comfort to these individuals who were sick and suffering.

America's troops could look at General Shali and see a man who understood their needs, because he had stood in their shoes. He worked his way through the ranks, but never forgot his own past.

General Shalikashvili spent his 39-year career fighting to protect freedom, and I think that the greatest tribute and reward for his service came this past July in the city of Warsaw. At that time, General Shali watched on as President Clinton invited Poland to become a member of NATO. Who would have ever imagined that the young Polish child, who was 3-years-old when Hitler's tanks rolled in from the East, would 1 day return to Poland as the highest-ranking officer of the U.S. military and stand before thousands of cheering Poles as his native country was welcomed back into the family of free nations?

General Shalikashvili is truly an inspiration to us all, and our Nation is richer and stronger as a result of his contributions. I want to personally thank him for his service, and I wish him and his wife, Joan, all the best as they enjoy retirement together. ●

**DEPLORING THE FAILURE TO FUND A PUGET SOUND CRAB LICENSE BUYBACK**

● Mr. GORTON. Mr. President, despite the efforts in conference of Senator GREGG and his staff, the Conference report provides no funding for a Puget Sound crab license buyback. I deplore this omission, which reportedly resulted from the House conferees' resistance to providing Federal funding for buyouts in State fisheries. Mr. President, even if Federal funding of buyouts in State fisheries was not specifically authorized, as it is, in section 312 of the Sustainable Fisheries Act of 1996, I firmly believe that the Federal Government has a particular responsibility to the nontribal commercial Dungeness crabbers in Puget Sound who have lost 50 percent of their stock as a result of a Federal court interpretation of a Federal treaty.

This is not an instance in which the hardship the buyout would have alleviated resulted from past actions or inactions on the part of commercial fishers. Overfishing and poor management are

not to blame. Rather, this hardship was judicially imposed. In 1995, a Federal district court determined that Indian tribes were entitled by Federal treaty to take up to 50 percent of the harvestable shellfish. The small, 250 vessel non-tribal commercial Puget Sound crab fishery that had existed for generations, was suddenly overwhelmed. I understand that because of the Federal court order, there are now about 450 additional tribal crab fishers.

Mr. President, the majority of the nontribal commercial crabbers in Puget Sound are self-employed. The vessels they own may account for a large portion of their assets. As the Governor of Washington State, Gary Locke, has stated, "The federal court action leaves them in a difficult financial position with vessels, equipment and related debt tied to an occupation that is no longer viable at its current licensed capacity." Again, I deeply regret the House conferees' failure to assume Federal responsibility for the consequence of a Federal action. ●

**SUBMITTING CHANGES TO THE BUDGET RESOLUTION AGGREGATES AND APPROPRIATIONS COMMITTEE ALLOCATION**

● Mr. DOMENICI. Mr. President, section 314(b)(2) of the Congressional Budget Act, as amended, requires the chairman of the Senate Budget Committee to adjust the appropriate budgetary aggregates and the allocation for the Appropriations Committee to reflect additional new budget authority and outlays for an appropriation for arrearsages for international organizations, international peacekeeping, and multilateral development banks.

I hereby submit revisions to the budget authority, outlays, and deficit aggregates for fiscal year 1998 contained in section 101 of House Concurrent Resolution 84.

The material follows:

	Deficit	Budget authority	Outlays
Current aggregates .....	173,505,000,000	1,390,958,000,000	1,372,505,000,000
Adjustments .....	7,000,000	140,000,000	7,000,000
Revised aggregates .....	173,512,000,000	1,391,098,000,000	1,372,512,000,000

I hereby submit revisions to the 1998 Senate Appropriations Committee budget authority and outlay allocations, pursuant to section 302 of the Congressional Budget Act, in the following amounts:

	Budget authority	Outlays
Current allocation:		
Defense discretionary .....	269,000,000,000	266,823,000,000
Nondefense discretionary .....	256,081,000,000	283,286,000,000
Violent crime reduction fund .....	5,500,000,000	3,592,000,000
Mandatory .....	277,312,000,000	278,725,000,000
Total allocation .....	807,893,000,000	832,426,000,000
Adjustments:		
Defense discretionary .....		
Nondefense discretionary .....	140,000,000	7,000,000
Violent crime reduction fund .....		

	Budget authority	Outlays
Mandatory .....		
Total allocation .....	140,000,000	7,000,000
Revised allocation:		
Defense discretionary .....	269,000,000,000	266,823,000,000
Nondefense discretionary .....	256,221,000,000	283,293,000,000
Violent crime reduction fund .....	5,500,000,000	3,592,000,000
Mandatory .....	277,312,000,000	278,725,000,000
Total allocation .....	808,033,000,000	832,433,000,000

**EXECUTIVE SESSION**

**EXECUTIVE CALENDAR**

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on the Executive Calendar: No. 337, No. 373, No. 374, No. 443, No. 448, No. 449, No. 450, No. 458, No. 459 and No. 460.

I further ask unanimous consent that the Labor Committee be discharged from further consideration of William Ferris and the Senate proceed to the

nomination. I also ask consent that the Governmental Affairs Committee be discharged from further consideration of Janice Lachance, and the Senate proceed to the nomination as well.

I finally ask unanimous consent that the nominations be confirmed, the motion to reconsider be laid upon the table, any statements relating to the nominations appear at this point in the RECORD, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Robert H. Beatty, Jr., of West Virginia, to be a Member of the Federal Mine Safety and Health Review Commission for the remainder of the term expiring August 30, 1998.

EXECUTIVE OFFICE OF THE PRESIDENT

Arthur Bienenstock, of California, to be an Associate Director of the Office of Science and Technology Policy.

DEPARTMENT OF COMMERCE

Raymond G. Kammer, of Maryland, to be Director of the National Institute of Standards and Technology.

DEPARTMENT OF THE INTERIOR

Kevin Gover, of New Mexico, to be an Assistant Secretary of the Interior.

UNITED STATES POSTAL SERVICE

Ernesta Ballard, of Alaska, to be a Governor of the United States Postal Service for a term expiring December 8, 2005.

FEDERAL LABOR RELATIONS AUTHORITY

Dale Cabaniss, of Virginia, to be a Member of the Federal Labor Relations Authority for a term expiring July 29, 2002.

MERIT SYSTEMS PROTECTION BOARD

Susanne T. Marshall, of Virginia, to be a Member of the Merit Systems Protection Board for the term of seven years expiring March 1, 2004.

Frank C. Damrell, Jr., of California, to be United States District Judge for the Eastern District of California.

Martin J. Jenkins, of California, to be United States District Judge for the Northern District of California.

A. Richard Caputo, of Pennsylvania, to be United States District Judge for the Middle District of Pennsylvania.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

William R. Ferris, of Mississippi, to be Chairperson of the National Endowment for the Humanities for a term of four years.

OFFICE OF PERSONNEL MANAGEMENT

Janice R. Lachance, of Maine, to be Director of the Office of Personnel Management for a term of four years.

NOMINATION OF KEVIN GOVER

Mr. DASCHLE. Mr. President, as we work through the Executive Calendar in the closing hours of the first session of the 105th Congress, I want to call my colleagues' attention to the President's nominee to be Assistant Secretary of the Interior for Indian Affairs, Kevin Gover of Albuquerque, New Mexico.

This appointment is important to my state and my constituents. Approxi-

mately 70,000 Native Americans live on nine reservations in South Dakota. Their daily lives are greatly affected by the activities of the BIA.

The appointment is also important to the nation as a whole. Anyone familiar with American history or who believes in the American dream of equal opportunity for all has a stake in federal Indian policy.

The Assistant Secretary of the Interior for Indian Affairs play a critical role in setting the agenda for the Bureau of Indian Affairs and has a great impact on the success or failure of federal Indian policy. He or she must understand the history of federal/Indian relations and have a vision for the future of this relationship. The Assistant Secretary for Indian Affairs must not only be accessible to tribal leaders, but also serve as an effective advocate for Indian people within the Executive branch decision-making circles. Finally, the Assistant Secretary must be a manager of the agency as well as a spokesperson for Administration policy.

Kevin Gover is a strong nominee to lead the Bureau of Indian Affairs. He is an enrolled member of the Pawnee Tribe of Oklahoma and is a partner in the law firm Gover, Williams and Janov in Albuquerque, New Mexico. He received his JD from the University of New Mexico and has specialized in federal Indian law, natural resource law, environmental law and housing law.

Kevin Gover has not only the intellectual capability and legal skill, but also the practical experience needed to be effective as Assistant Secretary of the Interior for Indian Affairs. He has worked in Indian Country long enough to see the successes and failures of the Bureau of Indian Affairs, and he has the perspective to help chart its course to the future.

Those of us in this chamber who represent significant Indian constituencies can all attest to the magnitude, complexity and significance of the challenges facing the Bureau of Indian Affairs. Tribal leaders in South Dakota have discussed with me their concerns about broad and important issues such as economic development, education, housing and health care. The BIA must be prepared to play a fair and constructive role in addressing these and other concerns about the quality of life on our reservations. I expect we all want the next Assistant Secretary of the Interior for Indian Affairs to possess the intellect, vision, leadership skills and wisdom to make this organization more effective and responsive to the ever-changing needs of those it serves. I believe Kevin Gover possesses these qualities.

There has been some concern expressed about the role Mr. Gover played as a private attorney in gaming activities in New Mexico. Senator CAMPBELL, Chairman of the Senate In-

dian Affairs Committee, and Senator INOUE, Vice Chair of the Committee, have both had an opportunity to review the FBI background report on Mr. Gover. They reported in the Committee hearing that they found nothing that should disqualify Mr. Gover from serving as Assistant Secretary. This review obviously included his activities as counsel to tribes with gaming operations in New Mexico. Moreover, in his confirmation hearings, Mr. Gover made clear that while he makes no apology for his support of Indian gaming, as Assistant Secretary he will not tolerate illegal gaming.

Kevin Gover has strong support throughout Indian Country. He enjoys this support because tribes realize that the Bureau of Indian Affairs needs a leader like Kevin Gover to move the BIA into the 21st century. I support this nomination and encourage my colleagues to do likewise.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

HOMEOWNERS PROTECTION ACT OF 1997

Mr. SESSIONS. Mr. President, I now ask unanimous consent that the Senate proceed to the consideration of Calendar No. 243, S. 318.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 318) to amend the Truth in Lending Act to require automatic cancellation and notice of cancellation rights with respect to private mortgage insurance which is required by a creditor as a condition for entering into a residential mortgage transaction.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Banking, Housing, and Urban Affairs, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Homeowners Protection Act of 1997".

SEC. 2. DEFINITIONS.

In this Act, the following definitions shall apply:

(1) CANCELLATION DATE.—The term "cancellation date" means (at the option of the mortgagor) the date on which the principal balance of a residential mortgage—

(A) based solely on the initial amortization schedule for that mortgage, and irrespective of the outstanding balance for that mortgage on that date, is first scheduled to reach 80 percent of the original value of the property securing the loan; or

(B) based on actual payments, reaches 80 percent of the original value of the property securing the loan.

(2) **GOOD PAYMENT HISTORY.**—The term "good payment history" means, with respect to a mortgagor, that the mortgagor has not—

(A) made a mortgage payment that was 60 days or longer past due during the 12-month period beginning 24 months before the date on which the mortgage reaches the cancellation date; or

(B) made a mortgage payment that was 30 days or longer past due during the 12-month period preceding the date on which the mortgage reaches the cancellation date.

(3) **INITIAL AMORTIZATION SCHEDULE.**—With respect to—

(A) a residential mortgage for which the interest rate is not subject to change, the term "initial amortization schedule" means a schedule established at the time at which a residential mortgage transaction is consummated, showing—

(i) the amount of principal and interest that is due at regular intervals to retire the principal balance and accrued interest over the amortization period of the loan; and

(ii) the unpaid principal balance of the loan after each scheduled payment is made; and

(B) a residential mortgage for which the interest rate is subject to change, the "initial amortization schedule" shall be based upon the interest rate or rates applicable to the residential mortgage on the date on which the transaction is consummated.

(4) **MORTGAGE INSURANCE.**—The term "mortgage insurance" means insurance, including any mortgage guaranty insurance, against the nonpayment of, or default on, an individual mortgage or loan involved in a residential mortgage transaction.

(5) **MORTGAGE INSURER.**—The term "mortgage insurer" means a provider of private mortgage insurance, as described in this Act, that is authorized to transact such business in the State in which the provider is transacting such business.

(6) **MORTGAGEE.**—The term "mortgagee" means the holder of a residential mortgage at the time at which that mortgage transaction is consummated.

(7) **MORTGAGOR.**—The term "mortgagor" means the original borrower under a residential mortgage or his or her successors or assignees.

(8) **ORIGINAL VALUE.**—The term "original value", with respect to a residential mortgage, means the lesser of the sales price of the property securing the mortgage, as reflected in the contract, or the appraised value at the time at which the subject residential mortgage transaction was consummated.

(9) **PRIVATE MORTGAGE INSURANCE.**—The term "private mortgage insurance" means mortgage insurance other than mortgage insurance made available under the National Housing Act, title 38 of the United States Code, or title V of the Housing Act of 1949.

(10) **RESIDENTIAL MORTGAGE.**—The term "residential mortgage" means a mortgage, loan, or other evidence of a security interest created with respect to a single-family dwelling that is the primary residence of the mortgagor.

(11) **RESIDENTIAL MORTGAGE TRANSACTION.**—The term "residential mortgage transaction" means a transaction consummated on or after the date that is 1 year after the date of enactment of this Act, in which a mortgage, deed of trust, purchase money security interest arising under an installment sales contract, or equivalent consensual security interest is created or retained against a single-family dwelling that is the primary residence of the mortgagor to finance the acquisition, initial construction, or refinancing of that dwelling.

(12) **SERVICER.**—The term "servicer" has the same meaning as in section 6(i)(2) of the Real Estate Settlement Procedures Act of 1974, with respect to a residential mortgage.

(13) **SINGLE-FAMILY DWELLING.**—The term "single-family dwelling" means a residence consisting of 1 family dwelling unit.

(14) **TERMINATION DATE.**—The term "termination date" means the date on which the principal balance of a residential mortgage, based solely on the initial amortization schedule for that mortgage, and irrespective of the outstanding balance for that mortgage on that date, is first scheduled to reach 78 percent of the original value of the property securing the loan.

### SEC. 3. TERMINATION OF PRIVATE MORTGAGE INSURANCE.

(a) **BORROWER CANCELLATION.**—A requirement for private mortgage insurance in connection with a residential mortgage transaction shall be canceled on the cancellation date, if the mortgagor—

(1) submits a request in writing to the servicer that cancellation be initiated;

(2) has a good payment history with respect to the residential mortgage; and

(3) has satisfied any requirement of the holder of the mortgage (as of the date of a request under paragraph (1)) for—

(A) evidence (of a type established in advance by the holder and made known to the mortgagor promptly upon receipt of a request under paragraph (1)) that the value of the property securing the mortgage has not declined below the original value of the property; and

(B) certification that the equity of the mortgage in the residence securing the mortgage is unencumbered by a subordinate lien.

(b) **AUTOMATIC TERMINATION.**—A requirement for private mortgage insurance in connection with a residential mortgage transaction shall terminate with respect to payments for that mortgage insurance made by the mortgagor—

(1) on the termination date if, on that date, the mortgagor is current on the payments required by the terms of the residential mortgage transaction; or

(2) on the date after the termination date on which the mortgagor becomes current on the payments required by the terms of the residential mortgage transaction.

(c) **FINAL TERMINATION.**—If a requirement for private mortgage insurance is not otherwise canceled or terminated in accordance with subsection (a) or (b), in no case may such a requirement be imposed beyond the first day of the month immediately following the date that is the midpoint of the amortization period of the loan if the mortgagor is current on the payments required by the terms of the mortgage.

(d) **NO FURTHER PAYMENTS.**—No payments or premiums may be required from the mortgagor in connection with a private mortgage insurance requirement terminated or canceled under this section—

(1) in the case of cancellation under subsection (a), more than 30 days after the later of—

(A) the date on which a request under subsection (a)(1) is received; or

(B) the date on which the mortgagor satisfies any evidence and certification requirements under subsection (a)(3);

(2) in the case of termination under subsection (b), more than 30 days after the termination date or the date referred to in subsection (b)(2), as applicable; and

(3) in the case of termination under subsection (c), more than 30 days after the final termination date established under that subsection.

(e) **RETURN OF UNEARNED PREMIUMS.**—

(1) **IN GENERAL.**—Not later than 45 days after the termination or cancellation of a private mortgage insurance requirement under this section, all unearned premiums for private mortgage insurance shall be returned to the mortgagor by the servicer.

(2) **TRANSFER OF FUNDS TO SERVICER.**—Not later than 30 days after notification by the

servicer of termination or cancellation of private mortgage insurance under this Act with respect to a mortgagor, a mortgage insurer that is in possession of any unearned premiums of that mortgagor shall transfer to the servicer of the subject mortgage an amount equal to the amount of the unearned premiums for repayment in accordance with paragraph (1).

(f) **EXCEPTIONS FOR HOUSING OPPORTUNITY PROGRAMS AND HIGH RISK LOANS.**—

(1) **IN GENERAL.**—The termination and cancellation provisions in subsections (a) and (b) do not apply to any residential mortgage or mortgage transaction that, at the time at which the residential mortgage transaction is consummated, has high risks associated with the extension of the loan—

(A) as determined by guidelines published by the Federal National Mortgage Association and Federal Home Loan Mortgage Corporation, so as to require the imposition or continuation of a private mortgage insurance requirement beyond the terms specified in subsection (a) or (b) of section 3; or

(B) as determined by the mortgagee in accordance with guidelines that are identical to the guidelines published under subparagraph (A).

(2) **TERMINATION AT MIDPOINT.**—A private mortgage insurance requirement in connection with a residential mortgage or mortgage transaction described in paragraph (1) shall terminate in accordance with subsection (c).

(3) **RULE OF CONSTRUCTION.**—Nothing in this subsection may be construed to require a mortgage or mortgage transaction described in paragraph (1)(A) to be purchased by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation.

### SEC. 4. DISCLOSURE REQUIREMENTS.

(a) **DISCLOSURES FOR NEW MORTGAGES AT TIME OF TRANSACTION.**—

(1) **DISCLOSURES FOR NON-EXEMPTED TRANSACTIONS.**—In any case in which private mortgage insurance is required in connection with a residential mortgage or mortgage transaction (other than a mortgage or mortgage transaction described in section 3(f)(1)), at the time at which the transaction is consummated, the mortgagee shall provide to the mortgagor—

(A) a written initial amortization schedule; and

(B) written notice—

(i) that the mortgagor may cancel the requirement in accordance with section 3(a) of this Act indicating the date on which the mortgagor may request cancellation, based solely on the initial amortization schedule;

(ii) that the mortgagor may request cancellation in accordance with section 3(a) of this Act earlier than provided for in the initial amortization schedule, based on actual payments;

(iii) that the requirement for private mortgage insurance will automatically terminate on the termination date in accordance with section 3(b) of this Act, and what that termination date is with respect to that mortgage; and

(iv) that there are exemptions to the right to cancellation and automatic termination of a requirement for private mortgage insurance in accordance with section 3(f) of this Act, and whether such an exemption applies at that time to that transaction.

(2) **DISCLOSURES FOR EXCEPTED TRANSACTIONS.**—In the case of a mortgage or mortgage transaction described in section 3(f)(1), at the time at which the transaction is consummated, the mortgagee shall provide written notice to the mortgagor that in no case may private mortgage insurance be required beyond the date that is the midpoint of the amortization period of the loan, if the mortgagor is current on payments required by the terms of the residential mortgage.

(3) **ANNUAL DISCLOSURES.**—If private mortgage insurance is required in connection with a residential mortgage transaction, the servicer shall

disclose to the mortgagor in each such transaction in an annual written statement—

(A) the rights of the mortgagor under this Act to cancellation or termination of the private mortgage insurance requirement; and

(B) an address and telephone number that the mortgagor may use to contact the servicer to determine whether the mortgagor may cancel the private mortgage insurance.

(4) **APPLICABILITY.**—Paragraphs (1) through (3) shall apply with respect to each residential mortgage transaction consummated on or after the date that is 1 year after the date of enactment of this Act.

(b) **DISCLOSURES FOR EXISTING MORTGAGES.**—If private mortgage insurance was required in connection with a residential mortgage entered into at any time before the effective date of this Act, the servicer shall disclose to the mortgagor in each such transaction in an annual written statement—

(1) that the private mortgage insurance may, under certain circumstances, be canceled by the mortgagor (with the consent of the mortgagee or in accordance with applicable State law); and

(2) an address and telephone number that the mortgagor may use to contact the servicer to determine whether the mortgagor may cancel the private mortgage insurance.

(c) **INCLUSION IN OTHER ANNUAL NOTICES.**—The information and disclosures required under subsection (b) and paragraphs (1)(B) and (3) of subsection (a) may be provided on the annual disclosure relating to the escrow account made as required under the Real Estate Settlement Procedures Act of 1974, or as part of the annual disclosure of interest payments made pursuant to Internal Revenue Service regulations, and on a form promulgated by the Internal Revenue Service for that purpose.

(d) **STANDARDIZED FORMS.**—The mortgagee or servicer may use standardized forms for the provision of disclosures required under this section.

#### **SEC. 5. NOTIFICATION UPON CANCELLATION OR TERMINATION.**

(a) **IN GENERAL.**—Not later than 30 days after the date of cancellation or termination of a private mortgage insurance requirement in accordance with this Act, the servicer shall notify the mortgagor in writing—

(1) that the private mortgage insurance has terminated and that the mortgagor no longer has private mortgage insurance; and

(2) that no further premiums, payments, or other fees shall be due or payable by the mortgagor in connection with the private mortgage insurance.

(b) **NOTICE OF GROUNDS.**—

(1) **IN GENERAL.**—If a holder of a residential mortgage (or a servicer acting on behalf of that holder) determines that a mortgage did not meet the requirements for termination or cancellation of private mortgage insurance under subsection (a) or (b) of section 3, the servicer shall provide written notice to the mortgagor of the grounds relied on to make the determination (including the results of any appraisal used to make the determination).

(2) **TIMING.**—Notice required by paragraph (1) shall be provided—

(A) with respect to cancellation of private mortgage insurance under section 3(a), not later than 30 days after the later of—

(i) the date on which a request is received under section 3(a)(1); or

(ii) the date on which the mortgagor satisfies any evidence and certification requirements under section 3(a)(3); and

(B) with respect to termination of private mortgage insurance under section 3(b), not later than 30 days after the scheduled termination date.

#### **SEC. 6. DISCLOSURE REQUIREMENTS FOR LENDER PAID MORTGAGE INSURANCE.**

(a) **DEFINITIONS.**—For purposes of this section—

(1) the term "borrower paid mortgage insurance" means private mortgage insurance that is required in connection with a residential mortgage transaction, payments for which are made by the borrower; and

(2) the term "lender paid mortgage insurance" means private mortgage insurance that is required in connection with a residential mortgage transaction, payments for which are made by a person other than the borrower.

(b) **EXCLUSION.**—Sections 3 through 5 do not apply in the case of lender paid mortgage insurance.

(c) **NOTICES TO MORTGAGOR.**—In the case of lender paid mortgage insurance that is required in connection with a residential mortgage or a residential mortgage transaction—

(1) not later than the date on which a loan commitment is made for the residential mortgage transaction, the prospective mortgagee shall provide to the prospective mortgagor a written notice—

(A) that lender paid mortgage insurance differs from borrower paid mortgage insurance, in that lender paid mortgage insurance may not be canceled by the mortgagor, while borrower paid mortgage insurance could be cancelable by the mortgagor in accordance with section 3(a) of this Act, and could automatically terminate on the termination date in accordance with section 3(b) of this Act;

(B) that lender paid mortgage insurance—

(i) usually results in a residential mortgage having a higher interest rate than it would in the case of borrower paid mortgage insurance; and

(ii) terminates only when the residential mortgage is refinanced, paid off, or otherwise terminated; and

(C) that lender paid mortgage insurance and borrower paid mortgage insurance both have benefits and disadvantages, including a generic analysis of the differing costs and benefits of a residential mortgage in the case lender paid mortgage insurance versus borrower paid mortgage insurance over a 10-year period, assuming prevailing interest and inflation rates;

(D) that lender paid mortgage insurance may be tax-deductible for purposes of Federal income taxes, if the mortgagor itemizes expenses for that purpose; and

(2) not later than 30 days after the termination date that would apply in the case of borrower paid mortgage insurance, the servicer shall provide to the mortgagor a written notice indicating that the mortgagor may wish to review financing options that could eliminate the requirement for private mortgage insurance in connection with the residential mortgage.

(d) **STANDARD FORMS.**—The servicer of a residential mortgage may develop and use a standardized form or forms for the provision of notices to the mortgagor, as required under subsection (c).

#### **SEC. 7. FEES FOR DISCLOSURES.**

No fee or other cost may be imposed on any mortgagor with respect to the provision of any notice or information to the mortgagor pursuant to this Act.

#### **SEC. 8. CIVIL LIABILITY.**

(a) **IN GENERAL.**—Any servicer, mortgagee, mortgage insurer, or holder of a residential mortgage that violates a provision of this Act shall be liable to each mortgagor to whom the violation relates for—

(1) actual damages;

(2) in the case of an action by an individual, such additional damage as the court may allow, not to exceed \$1,000;

(3) costs of the action; and

(4) reasonable attorney fees, as determined by the court.

(b) **TIMING OF ACTIONS.**—No action may be brought by a mortgagor under subsection (a)

later than 2 years after the date of the discovery of the violation that is the subject of the action.

(c) **LIMITATIONS ON LIABILITY.**—

(1) **IN GENERAL.**—With respect to a residential mortgage transaction, the failure of a servicer to comply with the requirements of this Act due to the failure of a mortgage insurer, a mortgagee, or a holder of a residential mortgage to comply with the requirements of this Act, shall not be construed to be a violation of this Act by the servicer.

(2) **RULE OF CONSTRUCTION.**—Nothing in paragraph (1) shall be construed to impose any additional requirement or liability on a mortgagee or mortgage insurer or holder of a residential mortgage.

#### **SEC. 9. EFFECT ON OTHER LAWS AND AGREEMENTS.**

(a) **EFFECT ON STATE LAW.**—

(1) **IN GENERAL.**—With respect to any residential mortgage or residential mortgage transaction consummated after the effective date of this Act, and except as provided in paragraph (2), the provisions of this Act shall supersede any provisions of the law of any State relating to requirements for obtaining or maintaining private mortgage insurance in connection with residential mortgage transactions, cancellation or automatic termination of such private mortgage insurance, any disclosure of information addressed by this Act, and any other matter specifically addressed by this Act.

(2) **CONTINUED APPLICATION OF CERTAIN PROVISIONS.**—This Act does not supersede any provision of the law of a State in effect on or before September 1, 1989, pertaining to the termination of private mortgage insurance or other mortgage guaranty insurance, to the extent that such law requires termination of such insurance at an earlier date or when a lower mortgage loan principal balance is achieved than as provided in this Act.

(b) **EFFECT ON OTHER AGREEMENTS.**—The provisions of this Act shall supersede any conflicting provision contained in any agreement relating to the servicing of a residential mortgage loan entered into by the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or any private investor or note holder (or any successors thereto).

#### **SEC. 10. CONSTRUCTION.**

Nothing in this Act shall be construed to impose any requirement for private mortgage insurance in connection with a residential mortgage transaction.

#### **SEC. 11. EFFECTIVE DATE.**

This Act, other than section 12, shall become effective 1 year after the date of enactment of this Act.

#### **SEC. 12. ABOLISHMENT OF THE THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD.**

(a) **IN GENERAL.**—Effective at the end of the 3-month period beginning on the date of enactment of this Act, the Thrift Depositor Protection Oversight Board established under section 21A of the Federal Home Loan Bank Act (hereafter in this section referred to as the "Oversight Board") is hereby abolished.

(b) **DISPOSITION OF AFFAIRS.**—

(1) **POWER OF CHAIRPERSON.**—Effective on the date of enactment of this Act, the Chairperson of the Oversight Board (or the designee of the Chairperson) may exercise on behalf of the Oversight Board any power of the Oversight Board necessary to settle and conclude the affairs of the Oversight Board.

(2) **AVAILABILITY OF FUNDS.**—Funds available to the Oversight Board shall be available to the Chairperson of the Oversight Board to pay expenses incurred in carrying out paragraph (1).

(c) **SAVINGS PROVISION.**—

(1) **EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.**—No provision of this section

shall be construed as affecting the validity of any right, duty, or obligation of the United States, the Oversight Board, the Resolution Trust Corporation, or any other person that—

(A) arises under or pursuant to the Federal Home Loan Bank Act, or any other provision of law applicable with respect to the Oversight Board; and

(B) existed on the day before the abolishment of the Oversight Board in accordance with subsection (a).

(2) CONTINUATION OF SUITS.—No action or other proceeding commenced by or against the Oversight Board with respect to any function of the Oversight Board shall abate by reason of the enactment of this section.

(3) LIABILITIES.—

(A) IN GENERAL.—All liabilities arising out of the operation of the Oversight Board during the period beginning on August 9, 1989, and the date that is 3 months after the date of enactment of this Act shall remain the direct liabilities of the United States.

(B) NO SUBSTITUTION.—The Secretary of the Treasury shall not be substituted for the Oversight Board as a party to any action or proceeding referred to in subparagraph (A).

(4) CONTINUATIONS OF ORDERS, RESOLUTIONS, DETERMINATIONS, AND REGULATIONS PERTAINING TO THE RESOLUTION FUNDING CORPORATION.—

(A) IN GENERAL.—All orders, resolutions, determinations, and regulations regarding the Resolution Funding Corporation shall continue in effect according to the terms of such orders, resolutions, determinations, and regulations until modified, terminated, set aside, or superseded in accordance with applicable law if such orders, resolutions, determinations, or regulations—

(i) have been issued, made, and prescribed, or allowed to become effective by the Oversight Board, or by a court of competent jurisdiction, in the performance of functions transferred by this section; and

(ii) are in effect at the end of the 3-month period beginning on the date of enactment of this section.

(B) ENFORCEABILITY OF ORDERS, RESOLUTIONS, DETERMINATIONS, AND REGULATIONS BEFORE TRANSFER.—Before the effective date of the transfer of the authority and duties of the Resolution Funding Corporation to the Secretary of the Treasury under subsection (d), all orders, resolutions, determinations, and regulations pertaining to the Resolution Funding Corporation shall be enforceable by and against the United States.

(C) ENFORCEABILITY OF ORDERS, RESOLUTIONS, DETERMINATIONS, AND REGULATIONS AFTER TRANSFER.—On and after the effective date of the transfer of the authority and duties of the Resolution Funding Corporation to the Secretary of the Treasury under subsection (d), all orders, resolutions, determinations, and regulations pertaining to the Resolution Funding Corporation shall be enforceable by and against the Secretary of the Treasury.

(d) TRANSFER OF THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD AUTHORITY AND DUTIES OF RESOLUTION FUNDING CORPORATION TO SECRETARY OF THE TREASURY.—Effective at the end of the 3-month period beginning on the date of enactment of this Act, the authority and duties of the Oversight Board under sections 21A(a)(6)(I) and 21B of the Federal Home Loan Bank Act are transferred to the Secretary of the Treasury (or the designee of the Secretary).

(e) MEMBERSHIP OF THE AFFORDABLE HOUSING ADVISORY BOARD.—Effective on the date of enactment of this Act, section 14(b)(2) of the Resolution Trust Corporation Completion Act (12 U.S.C. 1831q note) is amended—

(1) by striking subparagraph (C); and

(2) by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively.

(f) TIME OF MEETINGS OF THE AFFORDABLE HOUSING ADVISORY BOARD.—

(1) IN GENERAL.—Section 14(b)(6)(A) of the Resolution Trust Corporation Completion Act (12 U.S.C. 1831q note) is amended—

(A) by striking “4 times a year, or more frequently if requested by the Thrift Depositor Protection Oversight Board or” and inserting “2 times a year or at the request of”; and

(B) by striking the second sentence.

(2) CLERICAL AMENDMENT.—Section 14(b)(6)(A) of the Resolution Trust Corporation Completion Act (12 U.S.C. 1831q note) is amended, in the subparagraph heading, by striking “AND LOCATION”.

Amend the title so as to read: “A Bill to require automatic cancellation and notice of cancellation rights with respect to private mortgage insurance which is required as a condition for entering into a residential mortgage transaction, to abolish the Thrift Depositor Protection Oversight Board, and for other purposes.”.

Mr. D'AMATO. Mr. President, today the Senate will consider, and I trust pass, S. 318, the Homeowners Protection Act of 1997. The Homeowners Protection Act, which I introduced earlier this year, and the Banking Committee passed by a 16-to-1 vote, is truly important legislation. This bill will protect homebuyers from excessive mortgage insurance premiums for homebuyers. It is a great product of great deal of hard work by a number of the Banking Committee's members. As a result, the legislation contains the consumer protections of the original bill; at the same time, the bill will be less of a compliance burden for the businesses that are subject to the legislation.

Mr. President, the substitute amendment that Senator SARBANES and I will offer for Senate consideration is the result of a great deal of hard work by Members on both sides of the aisle. First, I would like to begin by thanking my colleague and friend from North Carolina, Senator FAIRCLOTH, for his hard work on this issue. Senator FAIRCLOTH and his staff have worked tirelessly to help craft compromise language that encompasses real consumer protection without undue regulatory burden. I would also like to offer my thanks to ranking minority member PAUL SARBANES and the bill's cosponsors, Senator DODD and Senator BRYAN, for their continuous support. I truly appreciate their valuable input in preparing the floor amendment that we are considering today. Likewise, I would like to commend Senators GRAMS and MOSELEY-BRAUN for their successful handling of the lender paid mortgage insurance issue, and my friend from Utah, Senator BENNETT, for helping to craft compromise language regarding class action liability.

Once again, I would particularly like to thank Representative JAMES HANSEN (R-UT), who has been the leader in the House in the fight to address PMI abuses.

Mr. President, by passing this bill we can remedy a market dysfunction—unnecessary private mortgage insurance

premiums. These premiums are being paid by tens of thousands of American homeowners. Private mortgage insurance is typically required when a homebuyer cannot make the standard 20-percent downpayment. For many creditworthy, cash-poor potential homebuyers, private mortgage insurance has been a blessing. Unfortunately, it can also become a curse.

I will present just one example of this unfair practice. A homebuyer purchases a \$100,000 home with a 30-year, fixed rate mortgage and a 10-percent downpayment. After 10 years and \$3,500 in mortgage insurance premiums, it is likely that the homeowners would have a 20-percent equity stake in his or her home. At this time, private mortgage insurance is no longer necessary. However, if that homeowner is unaware of the right to cancel—as many are—and continues to pay for unnecessary insurance, he or she could spend an additional \$7,000 in premiums over the life of the loan. And this is less costly than many of the horror stories we hear. In fact, private mortgage insurance rates average between \$20 and \$100 per month, meaning that some consumers are unknowingly paying from \$240 to \$1,200 a year for absolutely no reason. Situations like these are nothing less than a fleecing of the American homeowner.

The private mortgage insurance industry extended coverage on nearly 900,000 of the approximately 4.4 million mortgages made for the purchase of single-family homes in 1995. At a Banking Committee hearing earlier this year, the spokesman for the private mortgage insurance industry stated that of the approximately 5 million homeowners repaying mortgages covered by PMI, 5 percent could be eligible for cancellation. That amounts to 250,000 hardworking families. And some estimates go much higher.

In fact, according to a recent Washington Post article by Ken Harney:

An eye-opening new estimate of the extent of the problem came last week when a Dallas-based loan portfolio analyst said he believes that as much as one-fifth of some lenders' mortgage portfolios consist of PMI-insured loans with equities that are greater than 20 percent of current market resale value.

Mr. President, clearly, American homeowners, particularly middleclass and firsttime homeowners need our help—and I can say today that that help is on the way. The committee print enables homeowners to initiate cancellation when they have accumulated 20-percent equity. Otherwise, the general rule is that PMI must be automatically canceled at 22 percent.

The bill also requires that all existing mortgagors who currently maintain PMI will receive an annual notice informing them that under certain circumstances their insurance may be canceled. The notice must include information to allow the homeowner to

contact his or her servicer regarding cancellation requirements. New homebuyers will be informed of their cancellation rights at closing, and will be informed of their right under this law at closing and annually.

Mr. President, let me state for the record: I am opposed to unnecessary and excessive government regulation. This bill accomplishes the goals of S. 318 without imposing excess regulation. Clearly, the Congress should allow the free market to resolve most problems. This bill is only needed because, due to the peculiar nature of the PMI market, the market has not remedied this problem. I am grateful for the cooperation of all the industries and consumer groups that have helped bring us to this point.

Mr. President, the Homeowner's Protection Act is evidence of what this body can accomplish with hard work on a bipartisan basis. Currently, unnecessary PMI premiums are wrong—when this bill becomes law, they will be illegal. I urge my colleagues to support this important bill and to vote for its passage.

AMENDMENT NO. 1623

(Purpose: To provide a substitute)

Mr. SESSIONS. Senator D'AMATO has a substitute amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alabama [Mr. SESSIONS] for Mr. D'AMATO, for himself and Mr. SARBANES, proposes an amendment numbered 1623.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. DODD. Mr. President. I rise today in strong support for passage of S. 318, the Homeowners Protection Act of 1997. This important consumer legislation would end the odious practice of forcing hundreds of thousands of homeowners to pay for private mortgage insurance long after they, or their lender, cease to derive any benefit from it.

Private mortgage insurance—or PMI as it's known—has played a very important role in expanding homeownership opportunities for people who have had less than the traditional 20 percent downpayment that many lenders required. In the event of a default, the PMI provides insurance to the lender for the difference between the downpayment and 20 percent or, in rare instances, some other predetermined percentage—equity level. This is also known as an 80 percent loan-to-value ratio.

As beneficial as PMI has been, it has also developed some less savory characteristics. Principally, the problem with PMI as it exists today is that it is virtually impossible for a homeowner to stop making the premium payments, even after the PMI no longer provides

any protection. As a result, literally hundreds of thousands of homeowners pay as much as \$1,200 a year in unfair and unnecessary payments.

Mr. President, this legislation would change all that in a fair and simple way. First, the bill provides simple and meaningful disclosure to the borrower at the time of the mortgage closing, so that the borrower understands when and how they can cancel their PMI. In fact, the borrower receives an amortization table that gives them a date certain when they may voluntarily cancel the PMI and a date certain when the PMI will be automatically canceled. Second, the bill requires the mortgage servicer to provide annual notices to the homeowner and then to let the homeowner know that they've reached 80 percent loan-to-value ratio, based upon the original amortization table, and therefore, the homeowner may have the right to cancel. Third, the bill provides that for the vast majority of homeowners, their PMI will be automatically canceled at 78 percent loan-to-value ratio, based upon the original amortization table. Lastly, there are some very, very narrow exceptions for high-risk loans that allow the continuation of PMI to the half-life of the loan.

Let me put it more simply, Mr. President: for the overwhelming majority of homeowners, when you've got 20 percent equity in your home, you have the right to initiate cancellation of your PMI. If you choose not to initiate the cancellation, your PMI will be automatically canceled at 22 percent equity. It's that simple. And the result of these reforms will save hundreds of thousands of homeowners as much as \$1,200 a year.

As easy as the problem was to identify, it was a complicated and difficult process to achieve this legislative remedy. I particularly wish to acknowledge the outstanding work of Chairman D'AMATO, with whom I joined in this effort back in February. I would also like to thank Senator SARBANES, Senator FAIRCLOTH, and Senator BENNETT for their tireless efforts to achieve a bill that serves the interest of consumers without inadvertently disrupting the mortgage lending industry.

I urge my colleagues to join me in passing this legislation.

Mr. FAIRCLOTH. Mr. President, I want to commend my colleagues on the Banking Committee for their tireless efforts to craft this piece of legislation so that the final bill can enjoy such broad bipartisan support. The Banking Committee has passed positive legislation to protect consumers and give them new rights for canceling private mortgage insurance.

Private mortgage insurance has been a great tool to increase homeownership. But there have been too many cases where people had trouble canceling the insurance long after it was needed. This bill gives consumers the

opportunity to cancel their private mortgage insurance at 20-percent equity and requires automatic cancellation at 22-percent equity. S. 318 requires that homebuyers be informed about their right to cancel private mortgage insurance. It creates a national standard for cancellation that is clear and simple for consumers to understand. I believe it is a winner for all kinds of consumers.

When S. 318 was first introduced about 9 months ago many on the committee could not support it. It created unnecessary government mandates and controls on the entire mortgage industry by setting a bright line rule for cancellation. As a result, S. 318 as introduced, would have increased the cost of obtaining a low downpayment mortgage and would have put homeownership out of the reach for many families.

The version that was reported out of the committee, by a 16-to-1 vote on October 23, still provides consumers with important rights, but eliminates the Federal Government's role in the marketplace so that industry can continue to create innovative products for future homebuyers. Further, the bill provides meaningful limitations on class action lawsuits without stripping consumers of their enforcement mechanisms in the bill.

I believe that S. 318, as written today, is a good bill for consumers everywhere. Mortgage insurance is a valuable financial tool that allows people to get into homes years sooner than they would otherwise. But I do not want anyone to pay for it longer than it is needed. This bill gives consumers that protection.

Mr. SESSIONS. I ask unanimous consent that the amendment be considered as read and agreed to, the bill be considered as read a third time and passed as amended, the title amendment be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 1623) was agreed to.

The bill (S. 318), as amended, was read the third time and passed.

The title was amended so as to read: A Bill to require automatic cancellation and notice of cancellation rights with respect to private mortgage insurance which is required as a condition for entering into a residential mortgage transaction, to abolish the Thrift Depositor Protection Oversight Board, and for other purposes.

CANCELLATION DISAPPROVAL ACT OF 1997

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 284, H.R. 2631.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2631) disapproving the cancellations transmitted by the President on October 6, 1997 regarding public law 105-45.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. SESSIONS. I ask unanimous consent that the bill be read three times, passed, and the motion to reconsider be laid upon the table, that any statements relating thereto be printed in the RECORD at the appropriate place.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 2631) was ordered to a third reading, was read the third time, and passed.

#### COMPREHENSIVE ONE-CALL NOTIFICATION ACT OF 1997

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 280, S. 1115.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1115) to amend title 49, United States Code, to improve the one-call notification process, and for other purposes.

The Senate proceeded to consider the bill.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the bill be considered read a third time and passed; that the motion to reconsider be laid upon the table; and that any statements relating to the bill appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1115) was read the third time and passed, as follows:

S. 1115

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Comprehensive One-Call Notification Act of 1997".

#### SECTION 2. FINDINGS.

The Congress finds that—

(1) unintentional damage to underground facilities during excavation is a significant cause of disruptions in telecommunications, water supply, electric power and other vital public services, such as hospital and air traffic control operations, and is a leading cause of natural gas and hazardous liquid pipeline accidents;

(2) excavation that is performed without prior notification to an underground facility operator or with inaccurate marking of such a facility prior to excavation can cause damage that results in fatalities, serious injuries, harm to the environment and disruption of vital services to the public; and

(3) protection of the public and the environment from the consequences of underground facility damage caused by exca-

vations will be enhanced by a coordinated national effort to improve one-call notification programs in each State and the effectiveness and efficiency of one-call notification system that operate under such programs.

#### SEC. 3. ESTABLISHMENT OF ONE-CALL PROGRAM.

(a) IN GENERAL.—Subtitle III of title 49, United States Code, is amended by adding at the end thereof the following:

##### "CHAPTER 61—ONE-CALL NOTIFICATION PROGRAM

"Sec.

"6101. Purposes.

"6102. Definitions.

"6103. Minimum standards for State one-call notification programs.

"6104. Compliance with minimum standards.

"6105. Review of one-call system best practices.

"6106. Grants to States.

"6107. Authorization of appropriations.

##### "§ 6101. Purposes.

"The purposes of this chapter are—

"(1) to enhance public safety;

"(2) to protect the environment;

"(3) to minimize risks to excavators; and

"(4) to prevent disruption of vital public services,

by reducing the incidence of damage to underground facilities during excavation through the adoption and efficient implementation by all States of State one-call notification programs that meet the minimum standards set forth under section 6103.

##### "§ 6102. Definitions.

"For purposes of this chapter—

"(1) ONE-CALL NOTIFICATION SYSTEM.—The term "one-call notification system" means a system operated by an organization that has as one of its purposes to receive notification from excavators of intended excavation in a specified area in order to disseminate such notification to underground facility operators that are members of the system so that such operators can locate and mark their facilities in order to prevent damage to underground facilities in the course of such excavation.

"(2) STATE ONE-CALL NOTIFICATION PROGRAM.—The term "State one-call notification program" means the State statutes, regulations, orders, judicial decisions, and other elements of law and policy in effect in a State that establish the requirements for the operation of one-call notification systems in such State.

"(3) STATE.—The term "State" means a State, the District of Columbia, and Puerto Rico.

"(4) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

##### "§ 6103. Minimum standards for State one-call notification programs

"(a) MINIMUM STANDARDS.—A State one-call notification program shall, at a minimum, provide for—

"(1) appropriate participation by all underground facility operators;

"(2) appropriate participation by all excavators; and

"(3) flexible and effective enforcement under State law with respect to participation in, and use of, one-call notification systems.

"(b) APPROPRIATE PARTICIPATION.—In determining the appropriate extent of participation required for types of underground facilities or excavators under subsection (a), a State shall assess, rank, and take into consideration the risks to the public safety, the

environment, excavators, and vital public services associated with

"(1) damage to types of underground facilities; and

"(2) activities of types of excavators.

"(c) IMPLEMENTATION.—A State one-call notification program also shall, at a minimum, provide for

"(1) consideration of the ranking of risks under subsection (b) in the enforcement of its provisions;

"(2) a reasonable relationship between the benefits of one-call notification and the cost of implementing and complying with the requirements of the State one-call notification program; and

"(3) voluntary participation where the State determines that a type of underground facility or an activity of a type of excavator poses a *de minimis* risk to public safety or the environment.

"(d) PENALTIES.—To the extent the State determines appropriate and necessary to achieve the purposes of this chapter, a State one-call notification program shall, at a minimum, provide for

"(1) administrative or civil penalties commensurate with the seriousness of a violation by an excavator or facility owner of a State one-call notification program;

"(2) increased penalties for parties that repeatedly damage underground facilities because they fail to use one-call notification systems or for parties that repeatedly fail to provide timely and accurate marking after the required call has been made to a one-call notification system;

"(3) reduced or waived penalties for a violation of a requirement of a State one-call notification program that results in, or could result in, damage that is promptly reported by the violator;

"(4) equitable relief; and

"(5) citation of violations.

##### "§ 6104. Compliance with minimum standards

"(a) REQUIREMENT.—In order to qualify for a grant under section 6106, each State shall, within 2 years after the date of the enactment of the Comprehensive One-Call Notification Act of 1997, submit to the Secretary a grant application under subsection (b).

"(b) APPLICATION.—

"(1) Upon application by a State, the Secretary shall review that State's one-call notification program, including the provisions for implementation of the program and the record of compliance and enforcement under the program.

"(2) Based on the review under paragraph (1), the Secretary shall determine whether the State's one-call notification program meets the minimum standards for such a program set forth in section 6103 in order to qualify for a grant under section 6106.

"(3) In order to expedite compliance under this section, the Secretary may consult with the Secretary may consult with the State as to whether an existing State one-call notification program, a specific modification thereof, or a proposed State program would result in a positive determination under paragraph (2).

"(4) The Secretary shall prescribe the form of, and manner of filing, an application under this section that shall provide sufficient information about a State's one-call notification program for the Secretary to evaluate its overall effectiveness. Such information may include the nature and reasons for exceptions from required participation, the types of enforcement available, and such other information as the Secretary deems necessary.

"(5) The application of a State under paragraph (1) and the record of actions of the

Secretary under this section shall be available to the public.

"(c) ALTERNATIVE PROGRAM.—A State may maintain an alternative one-call notification program is that program provides protection for public safety, the environment, or excavators that is equivalent to, or greater than, protection under a program that meets the minimum standards set forth in section 6103.

"(d) REPORT.—Within 3 years after the date of the enactment of the Comprehensive One-call Notification Act of 1997, the Secretary shall begin to include the following information in reports submitted under section 60124 of this title—

"(1) a description of the extent to which each State has adopted and implemented the minimum Federal standards under section 6103 or maintains an alternative program under subsection (c);

"(2) an analysis by the Secretary of the overall effectiveness of the State's one-call notification program and the one-call notification systems operating under such program in achieving the purposes of this chapter;

"(3) the impact of the State's decisions on the extent or required participation in one call notification systems on prevention of damage to underground facilities; and

"(4) areas where improvements are needed in one call notification systems in operation in the State.

The report shall also include any recommendations the Secretary determines appropriate. If the Secretary determines that the purposes of this chapter have been substantially achieved, no further report under this section shall be required.

#### "§ 6105. Review of one-call system best practices

"(a) STUDY OF EXISTING ONE-CALL SYSTEMS.—Except as provided in subsection (d), the Secretary, in consultation with other appropriate Federal agencies, State agencies, one-call notification system operators, underground facility operators, excavators, and other interested parties, shall undertake a study of damage prevention practices associated with existing one-call notification systems.

"(b) PURPOSE OF STUDY OF DAMAGE PREVENTION PRACTICES.—The purpose of the study is to assemble information in order to determine which existing one-call notification systems practices appear to be the most effective in preventing damage to underground facilities and in protecting the public, the environment, excavators, and public service disruption. As part of the study, the Secretary shall at a minimum consider—

"(1) the methods used by one-call notification systems and others to encourage participation by excavators and owners of underground facilities;

"(2) the methods by which one-call notification systems promote awareness of their programs, including use of public service announcements and educational materials and programs;

"(3) the methods by which one-call notification systems receive and distribute information from excavators and underground facility owners;

"(4) the use of any performance and service standards to verify the effectiveness of a one-call notification system;

"(5) the effectiveness and accuracy of mapping used by one-call notification systems;

"(6) the relationship between one-call notification systems and preventing intentional damage to underground facilities;

"(7) how one-call notification systems address the need for rapid response to situations where the need to excavate is urgent;

"(8) the extent to which accidents occur due to errors in marking of underground facilities, untimely marking or errors in the excavation process after a one-call notification system has been notified of an excavation;

"(9) the extent to which personnel engaged in marking underground facilities may be endangered;

"(10) the characteristics of damage prevention programs the Secretary believes could be relevant to the effectiveness of State one-call notification programs; and

"(11) the effectiveness of penalties and enforcement activities under State one-call notification programs in obtaining compliance with program requirements.

"(c) REPORT.—Within 1 year after the date of the enactment of the Comprehensive One-Call Notification Act of 1997, the Secretary shall publish a report identifying those practices of one-call notification systems that are the most and least successful in—

"(1) preventing damage to underground facilities; and

"(2) providing effective and efficient service to excavators and underground facility operators.

The Secretary shall encourage States and operators of one-call notification programs to adopt and implement the most successful practices identified in the report.

"(d) SECRETARIAL DISCRETION.—Prior to undertaking the study described in subsection (a), the Secretary shall determine whether timely information described in subsection (b) is readily available. If the Secretary determines that such information is readily available, the Secretary is not required to carry out the study.

#### § 6106. Grants to States

"(a) IN GENERAL.—The Secretary may make a grant of financial assistance to a State that qualifies under section 6104(b) to assist in improving—

"(1) the overall quality and effectiveness of one-call notification systems in the State;

"(2) communications systems linking one-call notification systems;

"(3) location capabilities, including training personnel and developing and using location technology;

"(4) record retention and recording capabilities for one-call notification systems;

"(5) public information and education;

"(6) participation in one-call notification systems; or

"(7) compliance and enforcement under the State one-call notification program.

"(b) STATE ACTION TAKEN INTO ACCOUNT.—In making grants under this section the Secretary shall take into consideration the commitment of each State to improving its State one-call notification program, including legislative and regulatory actions taken by the State after the date of enactment of the Comprehensive One-Call Notification Act of 1997.

"(c) FUNDING FOR ONE-CALL NOTIFICATION SYSTEMS.—A State may provide funds received under this section directly to any one-call notification system in such State that substantially adopts the best practices identified under section 6105.

#### "§ 6107. Authorization of appropriations

"(a) FOR GRANTS TO STATES.—There are authorized to be appropriated to the Secretary in fiscal year 1999 no more than \$1,000,000 and in fiscal year 2000 no more than \$5,000,000, to be available until expended, to provide grants to States under section 6106.

"(b) FOR ADMINISTRATION.—There are authorized to be appropriated to the Secretary

such sums as may be necessary during fiscal years 1998, 1999, and 2000 to carry out sections 6103, 6104, and 6105.

"(c) GENERAL REVENUE FUNDING.—Any sums appropriated under this section shall be derived from general revenues and may not be derived from amounts collected under section 60301 of this title."

#### (b) CONFORMING AMENDMENTS.—

(1) The analysis of chapters for subtitle III of title 49, United States Code, is amended by adding at the end thereof the following:

#### "CHAPTER 61—ONE-CALL NOTIFICATION PROGRAM"

(2) Chapter 601 of title 49, United States Code, is amended—

(A) by striking "sections 60114 and" in section 60105(a) of that chapter and inserting "section";

(B) by striking section 60114 and the item relating to that section in the table of sections for that chapter;

(C) by striking "60114(c), 60118(a)," in section 60122(a)(1) of that chapter and inserting "60118(a),";

(D) by striking "60114(c) or" in section 60123(a) of that chapter;

(E) by striking "sections 60107 and 60114(b)" in subsections (a) and (b) of section 60125 and inserting "section 60107" in each such subsection; and

(F) by striking subsection (d) of section 60125, and redesignating subsections (e) and (f) of that section as subsections (d) and (e).

#### MUSEUM AND LIBRARY SERVICES TECHNICAL AND CONFORMING AMENDMENTS OF 1997

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. 1505, introduced earlier today by Senator JEFFORDS.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1505) to make technical and conforming amendments to the Museum and Library Services Act, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. INOUE. Mr. President, may I call upon my colleague, the esteemed Chairman of the Committee on Labor and Human Resources, to clarify a matter that is addressed in the bill to provide technical amendments to the Museum and Library Services Act?

Mr. JEFFORDS. I am pleased to answer any question that the Senator from Hawaii may have.

Mr. INOUE. Under the provisions of the Library Services and Construction Act, Public Law 98-480, Native Hawaiian organizations are authorized to provide library services to Native Hawaiians. One of our most exemplary Federal grantees, Alu Like, Inc., has been administering the Native Hawaiian Library Project since 1985.

Native Hawaiian children in the State's public school system start school well behind other students when

it comes to crucial vocabulary skills. Hawaiian children enter kindergarten with lower vocabulary scores than other children (12th percentile: Peabody Picture Vocabulary Test—Revised, 1989), and in achievement tests of basic skills, Hawaiian students continue to perform below national norms and other groups in Hawaii. On the Reading Comprehension Subtest of the Stanford Achievement Test administered by the Hawaii State Department of Education in the spring of 1990, Hawaiian eighth grade students scored at the 18th percentile, the lowest of the four principal ethnic groups in Hawaii. A recent study in Hawaii by the Governor's Council for Literacy shows that Native Hawaiian adults have low literacy rates, with 30 percent at the lowest level compared with 19 percent of adults statewide.

It is these statistics, and the need to assure that parents have reading skills sufficient to foster learning and reading skills in their preschool and school-age children, that the Native Hawaiian Library Project has sought to address. This has been made possible because of the federal resources that have been made available under the Library Services and Construction Act. The initial funding for this program was \$590,123 and 1985, and because of the program's documented effectiveness, it has been funded each year thereafter for a total of \$7,223,297. Funding in the past fiscal year was \$635,025.

It is my understanding that in enacting the Museum and Library Services Act, the Congress sought to extend the authority for the library services programs that have proven to be so effective in enriching the reading and vocabulary skills of Americans of all ages. In our State, it has enabled Native Hawaiian children to begin to perform on a par with other students, it has effected a reduction in the drop-out rates of Native Hawaiian students and demonstrated a marked improvement in their performance on achievement tests, and has enabled adults with new literacy skills to secure employment.

It is because of the importance of this program to the Native Hawaiian people of our State that I seek your clarification that the bill to provide technical and conforming amendments to the Museum and Library Services Act, specifically section 6 of that measure, is intended simply to maintain the status quo relative to the federal support for Native Hawaiian library services by extending the authority for grants to Native Hawaiian organizations for this purpose.

Mr. JEFFORDS. The Senator from Hawaii is correct in his reading of the bill. It is our intent to assure that .25 percent of appropriated funds are reserved to provide services to Hawaiian Natives. This authority did exist under the Library Services and Construction Act.

Mr. INOUE. I thank the chairman of the Labor and Human Resources Committee for this clarification and urge my colleagues to support this measure.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the bill be deemed read a third time and passed; that the motion to reconsider be laid upon the table; and that any statements relating to the bill appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1505) was deemed read the third time and passed, as follows:

S. 1505

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Museum and Library Services Technical and Conforming Amendments of 1997".

#### SEC. 2. APPOINTMENT OF EMPLOYEES.

Section 206 of the Museum and Library Services Act (20 U.S.C. 9105 et seq.) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following:

"(b) APPOINTMENT AND COMPENSATION OF TECHNICAL AND PROFESSIONAL EMPLOYEES.—

"(1) IN GENERAL.—Subject to paragraph (2), the Director may appoint without regard to the provisions of title 5, United States Code, governing the appointment in the competitive service and may compensate without regard to the provisions of chapter 51 or subchapter III of chapter 53 of such title (relating to the classification and General Schedule pay rates), such technical and professional employees as the Director determines to be necessary to carry out the duties of the Institute.

"(2) NUMBER AND COMPENSATION.—The number of employees appointed and compensated under paragraph (1) shall not exceed 1/2 of the number of full-time regular or professional employees of the Institute. The rate of basic compensation for the employees appointed and compensated under paragraph (1) may not exceed the rate prescribed for level GS-15 of the General Schedule under section 5332 of title 5."

#### SEC. 3. SPECIAL LIBRARIES.

Section 213(2)(E) of the Museum and Library Services Act (20 U.S.C. 9122(2)(E)) is amended—

(1) by inserting "or other special library" after "a private library"; and

(2) by inserting "or special" after "such private".

#### SEC. 4. RESERVATIONS.

Section 221(a)(1) of the Museum and Library Services Act (20 U.S.C. 9131(a)(1)) is amended—

(1) in subparagraph (A), by striking "1 1/2 percent" and inserting "1.75 percent"; and

(2) in subparagraph (B), by striking "4 percent" and inserting "3.75 percent".

#### SEC. 5. MAINTENANCE OF EFFORT.

The second sentence of section 223(c)(1)(A)(i) of the Museum and Library Services Act (20 U.S.C. 9133(c)(1)(A)(i)) is amended to read as follows: "The amount of the reduction in the allotment for any fiscal year shall be equal to the allotment multiplied by a fraction—

"(1) the numerator of which is the result obtained by subtracting the level of such

State expenditures for the fiscal year for which the determination is made, from the average of the total level of such State expenditures for the 3 fiscal years preceding the fiscal year for which the determination is made; and

"(2) the denominator of which is the average of the total level of such State expenditures for the 3 fiscal years preceding the fiscal year for which the determination is made."

#### SEC. 6. SERVICE TO INDIAN TRIBES.

Section 261 of the Museum and Library Services Act (20 U.S.C. 9161) is amended—

(1) in the section heading, by striking "INDIAN TRIBES" and inserting "NATIVE AMERICANS"; and

(2) by striking "to organizations" and all that follows through "such organizations" and inserting "to Indian tribes and to organizations that primarily serve and represent Native Hawaiians (as the term is defined in section 9212 of the Native Hawaiian Education Act (20 U.S.C. 7912) to enable such tribes and organizations".

#### SEC. 7. NATIONAL LEADERSHIP GRANTS OR CONTRACTS.

Section 262 of the Museum and Library Services Act (20 U.S.C. 9162) is amended—

(1) in the section heading, by striking "NATIONAL LEADERSHIP GRANTS OR CONTRACTS" and inserting "NATIONAL LEADERSHIP GRANTS, CONTRACTS, OR COOPERATIVE AGREEMENTS";

(2) in subsection (a)—

(A) by striking "program awarding national leadership grants or contracts" and inserting "program of awarding grants or entering into contracts or cooperative agreements"; and

(B) by striking "Such grants or contracts" and inserting "Such grants, contracts, and cooperative agreements";

(3) in subsection (b)—

(A) in the section heading, by striking "(b) GRANTS OR CONTRACTS" and inserting "(b) GRANTS, CONTRACTS, OR COOPERATIVE AGREEMENTS"; and

(B) in paragraph (1), by inserting "or cooperative agreements," after "contracts"; and

(C) in paragraph (2), by striking "Grants and contracts" and inserting "Grants, contracts, and cooperative agreements".

#### SEC. 8. CORRECTION OF TYPOGRAPHICAL ERROR.

Section 262(a)(3) of the Museum and Library Services Act (20 U.S.C. 9162(a)(3)) is amended by striking "preservation of digitization" and inserting "preserving or digitization".

#### EXPRESSING SENSE OF CONGRESS REGARDING WOMEN'S MUSEUM INSTITUTE

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Con. Res. 67, submitted earlier today by Senator HUTCHISON.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 67) expressing the sense of Congress that the museum entitled "The Women's Museum: An Institute for the Future," in Dallas, Texas, be designated as a millennium project of the United States.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mrs. HUTCHISON. Mr. President, I am pleased today to support, along with my distinguished colleagues, Senators MURRAY, SNOWE, LANDRIEU, FEINSTEIN, BOXER, MIKULSKI, MOSELEY-BRAUN, and COLLINS this concurrent resolution to grant recognition to the effort now underway to establish The Women's Museum: An Institute for the Future.

This important museum, being sponsored by the Foundation for Women's Resources in Texas and to be completed in 2000 in Dallas, will appropriately be designated by this resolution as a national millennium project for the United States. While the resolution will not preclude other official events and activities commemorating the turn of the millennium, it will serve to highlight the contributions of women in our Nation and world and how those contributions promise to continue to expand and evolve into the next century and millennium. The Women's Museum: An Institute for the Future will become a focal point for this recognition and appreciation of the role of women in our lives and culture and in commerce, politics, art, music, the sciences, and virtually every other field of endeavor.

Mr. President, I am especially excited about the tremendous potential of this museum to educate all people, particularly young women and girls, about the growing opportunities women have today—opportunities that were only dreams a few decades ago. These visitors to the museum will have the opportunity to learn about the past, present, and potential future lives and accomplishments of women, using a variety of traditional and innovative exhibits and interactive experiences. Moreover, the museum will serve as a center where people may gather to discuss and research the history and trends of issues affecting women.

The museum will be housed in the historic Texas State Fair Coliseum, located on the grounds of Fair Park in Dallas, which receives over six million visitors a year and is already home to a host of cultural and artistic attractions. The Women's Museum: An Institute for the Future will be an exciting addition to this state and national asset, and I am confident will continue to attract the enthusiastic support of governments, individuals, and corporations across the nation and across the world. It is my hope that this concurrent resolution will help focus even more attention on this effort to acknowledge and understand the virtually limitless potential of women in our society.

Thank you, Mr. President, and I ask unanimous consent that the text of the concurrent resolution be printed in the RECORD.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the resolution be agreed to; that the preamble be agreed to; that the motion to reconsider be laid upon the table; and that any statements relating to the resolution appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Con. Res. 67) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. CON. RES. 67

Whereas knowledge of our heritage is critical to understanding and meeting the challenges of today and developing a vision for our future;

Whereas the recognition of historic contributions of women to civilization is woefully lacking and such contributions are misunderstood in our Nation's cultural and historical landscape;

Whereas the Foundation for Women's Resources has announced the creation of The Women's Museum: An Institute for the Future (in this resolution referred to as the "Museum"), a state-of-the-art, interactive museum that will—

(1) profile the specific achievements of individual women throughout history;

(2) explore the experiences of women in our civilization; and

(3) celebrate the role of women in culture, commerce, politics, art, music, and the sciences;

Whereas the Museum will both honor the past contributions of women in history as well as the future role of women in our society;

Whereas the Museum will be housed in the restored State Fair Coliseum in Dallas, Texas, and designed by architect Wendy Evans Joseph, Senior designer for the United States Holocaust Memorial Museum;

Whereas the Museum has been widely supported by numerous women's organizations, local governments, corporations, and individuals;

Whereas the Museum is scheduled to open in the year 2000, the first time as a Nation we have witnessed the turn of a millennium; and

Whereas the turn of the millennium will be commemorated by government institutions and agencies with special projects and events all over our country: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress—*

(1) that the past, present, and future contributions of women to culture, commerce, politics, art, music, and the sciences should be recognized and celebrated;

(2) that The Women's Museum: An Institute for the Future, in Dallas, Texas, should be designated as a millennium project for the United States; and

(3) that Federal agencies and other Federal institutions should support the establishment and operation of The Women's Museum: An Institute for the Future by—

(A) providing construction and operational support;

(B) supporting a ground-breaking ceremony for the museum; and

(C) supporting the museum and its objectives in all other respects.

AMENDING STANDING RULES OF THE SENATE

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 151, submitted earlier today by Senators WARNER and FORD.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 151) to amend the Standing Rules of the Senate to require the Committee on Rules and Administration to develop, implement, and update as necessary a strategic planning process for the functional and technical infrastructure support of the Senate.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. WARNER. Mr. President, as chairman of the Committee on Rules and Administration, it is my job to ensure that our colleagues have the support services they need to perform our constitutional responsibilities. Almost all of those services rely on information technology which must be coordinated between various authorities in the Senate. Ultimately, however, it is the Rules Committee that sets the overall policies for these services and remains responsible for ensuring that the needs of Senators and committees are met.

With the explosion in information technology, and the increasing sophistication of our user community, it is almost a full time job to ensure that the Senate keeps up with changes in technology in a timely manner. To assist in our responsibilities, the Committee sought the advice of outside experts with considerable experience advising both governmental entities and private industry in making the information technology and infrastructure support delivery decisions.

The consulting firm of Booz-Allen & Hamilton thoroughly reviewed our service delivery systems in the Senate, with considerable cooperation and participation by members' offices and the officers of the Senate. Booz-Allen has advised the Committee that the implementation of a strategic planning process for reviewing and coordinating the information technology and infrastructure support services of the Senate would enable us to make more cost-effective decisions about how to deliver those services.

The ranking member, Senator FORD, and I agree that this is a business practice that can prove very beneficial for the Senate. The resolution that we offer establishes that strategic planning process. I urge the adoption of the resolution.

Mr. FORD. Mr. President, the Committee on Rules and Administration has the responsibility of ensuring that everything runs smoothly in the Senate. We have to stay current on the latest technology to be responsive to the

needs of Senators and committees, and to make sure that we are using taxpayers' dollars wisely. There is a very delicate balance to strike between taking care of Members' individual needs and ensuring that the overall administration of the Senate functions in a coordinated and efficient manner.

To help the Rules Committee meet our responsibilities under the Standing Rules, the Committee solicited the advice of the consulting firm of Booz-Allen & Hamilton. Booz-Allen came before the Committee and presented their recommendations for how the Committee, and the Senate as a whole, can ensure that information technology and infrastructure support are more effectively and efficiently delivered in the Senate. Their recommendations include applying concepts that have worked in the private sector to bring efficiencies to technology and infrastructure support delivery. Specifically, Booz-Allen recommends that the Senate implement a strategic planning process for the delivery of information technology and infrastructure support.

This resolution provides for the creation of a strategic planning process in the Senate. I urge adoption of the resolution.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the resolution be agreed to; that the motion to reconsider be laid upon the table; and that any statements relating to the resolution appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 151) was agreed to, as follows:

S. RES. 151

*Resolved,*

**SECTION 1. AMENDMENT TO THE STANDING RULES OF THE SENATE.**

Paragraph 1(n)(2) of rule XXV of the Standing Rules of the Senate is amended—

(1) in division (A), by striking "and" at the end;

(2) in division (B), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(C) develop, implement, and update as necessary a strategy planning process and a strategic plan for the functional and technical infrastructure support of the Senate and provide oversight over plans developed by Senate officers and others in accordance with the strategic planning process."

**SEC. 2. COOPERATION BY OFFICES OF THE SENATE.**

(a) SECRETARY OF THE SENATE.—The Secretary of the Senate shall assist the efforts of the Committee on Rules and Administration with respect to the development and implementation of a strategic plan for the functional and technical infrastructure support of the Senate. The Secretary shall prepare for approval by the Committee implementation plans, including proposed budgets, for the areas of infrastructure support for which the Secretary is responsible.

(b) SERGEANT AT ARMS.—The Sergeant at Arms shall assist the efforts of the Committee on Rules and Administration with respect to the development and implementa-

tion of a strategic plan for the functional and technical infrastructure support of the Senate. The Sergeant at Arms shall prepare for approval by the Committee implementation plans, including proposed budgets, for the areas of infrastructure support for which the Sergeant at Arms is responsible.

**PROFESSIONAL BOXING SAFETY ACT AMENDMENT**

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. 1506, introduced earlier today by Senators MCCAIN and BRYAN.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1506) to amend the Professional Boxing Safety Act.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. MCCAIN. Mr. President, this legislation, on behalf of myself and Senator BRYAN of Nevada, would add a small but important amendment to the Professional Boxing Safety Act (P.L. 104-272), that was signed into law last year. This proposal would add language to the act to prevent promoters from exploiting professional boxers with respect to a certain unethical contracting practice. It would prohibit promoters from forcing a boxer, as a pre-condition to signing a contract for a bout, to hire a relative or associate of the promoter as their manager.

Testimony at the Commerce Committee's May 22nd 1997 hearing on the professional boxing industry detailed this practice, and prominent state commissioners have further advised Senator Bryan and I that the "forced hiring" of a promoter's relative does indeed occur. The most offensive result of this coercive practice is that boxers are forced to turn over at least *one-third of their earnings* to an individual with whom they have no business or personal relationship whatsoever. If the boxer refuses, they are effectively blacklisted from being able to compete in the lucrative bouts they have fairly earned. Their career may be over.

This practice is simply indefensible, and it clearly takes advantage of the fact that most professional boxers have little leverage in an industry dominated by a handful of powerful promoters. This legislative would end it. This amendment would add a provision to the new federal boxing safety and ethics law (P.L. 104-272) which was enacted with bipartisan support in the Senate and House of Representatives last year. Senator Bryan played a tremendously vital role as cosponsor of the Professional Boxing Safety Act, and he recently joined me in developing this proposal.

If enacted, this modest proposal will provide further assistance to a group of

athletes who have had few advocates for too long. I know this legislation will be strongly welcomed by the courageous athletes who sustain the professional boxing industry, as well as the state commissioners who have the responsibility to regulate professional boxing events.

For a promoter to force a boxer to turn over one-third or one-half of his earnings, by threatening to deny them the chance to compete in a major bout, is extremely offensive and unethical. This practice would never be tolerated in any other sport or profession in the U.S. Indeed, it would probably result in the promoter being kicked out of a professional sports league or be the subject of a law enforcement proceeding. The only reason that it has occurred in professional boxing is because the overwhelming majority of boxers in America are completely powerless when it comes to their own financial futures. They are often at the whim of the powerful business interests who dominate the sport. Furthermore, with no union or private industry association to help advocate their causes and interests, boxers are routinely ignored by business entities in the sport.

I am sure that every Member of the Senate would join senator BRYAN and I in ending this egregious practice if they were aware of it. This modest legislative proposal will achieve this goal, and stop one form of exploitation against a group of athletes who have been subject to fraudulent and coercive business practices for decades. I hope my colleagues will support the swift passage of this proposal.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the bill be deemed read a third time and passed; that the motion to reconsider be laid upon the table; and that any statements relating to the bill appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1506) was deemed read the third time and passed.

The text of the bill will be printed in a future edition of the RECORD.

**PETER J. MCCLOSKEY POSTAL FACILITY**

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of calendar No. 264, H.R. 2564.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2564) to designate the United States Post Office located at 450 North Centre Street in Pottsville, Pennsylvania, as the "Peter J. McCloskey Postal Facility."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the bill be considered read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 2564) was read a third time and passed.

#### THE CALENDAR

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senate now proceed en bloc to the following bills: Calendar No. 259, H.R. 282; calendar No. 262, H.R. 681; calendar No. 263, H.R. 2129; calendar No. 211, H.R. 1057; and calendar No. 212, H.R. 1058.

I further ask unanimous consent that the bills be considered read three times and passed, the motions to reconsider be laid upon the table, and that any statements relating to the bills be placed in the RECORD at the appropriate place, with the preceding all done en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### OSCAR GARCIA RIVERA POST OFFICE BUILDING

A bill (H.R. 282) to designate the U.S. Post Office Building located at 153 East 110th Street, New York, NY, as the "Oscar Garcia Rivera Post Office Building," was considered, ordered to a third reading, read the third time, and passed.

#### CARLOS J. MOORHEAD POST OFFICE BUILDING

A bill (H.R. 681) to designate the U.S. Post Office Building located at 313 East Broadway in Glendale, CA, as the "Carlos J. Moorhead Post Office Building," was considered, ordered to a third reading, read the third time, and passed.

#### DOUGLAS APPLIGATE POST OFFICE BUILDING

A bill (H.R. 2129) to designate the U.S. Post Office Building located at 150 North 3d Street in Steubenville, OH, as the "Douglas Applegate Post Office Building," was considered, ordered to a third reading, read the third time, and passed.

#### ANDREW JACOBS, JR. POST OFFICE BUILDING

A bill (H.R. 1057) to designate the building in Indianapolis, IN, which houses the operation of the Indianapolis Main Post Office as the "Andrew Jacobs, Jr. Post Office Building," was considered, ordered to a third reading, read the third time, and passed.

#### JOHN T. MYERS POST OFFICE BUILDING

A bill (H.R. 1058) to designate the facility of the U.S. Postal Service under construction at 150 West Margaret Drive in Terre Haute, IN, as the "John T. Myers Post Office Building," was considered, ordered to a third reading, read the third time, and passed.

#### PROVIDING CERTAIN BENEFITS OF THE PICK-SLOAN MISSOURI RIVER BASIN PROGRAM TO THE LOWER BRULE SIOUX TRIBE

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 156, a bill reported earlier today by the Indian Affairs Committee.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A bill (S. 156) to provide certain benefits of the Pick-Sloan Missouri River Basin program to the Lower Brule Sioux Tribe, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Indian Affairs, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 156

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Lower Brule Sioux Tribe Infrastructure Development Trust Fund Act".

#### SEC. 2. FINDINGS.

Congress finds that—

(1) under the Act of December 22, [1994] 1944, commonly known as the "Flood Control Act of [1994] 1944" (58 Stat. 887, chapter 665; 33 U.S.C. 701-1 et seq.) Congress approved the Pick-Sloan Missouri River Basin program—

(A) to promote the general economic development of the United States;

(B) to provide for irrigation above Sioux City, Iowa;

(C) to protect urban and rural areas from devastating floods of the Missouri River; and

(D) for other purposes;

(2) the Fort Randall and Big Bend projects are major components of the Pick-Sloan Missouri River Basin program, and contribute to the national economy by generating a substantial amount of hydropower and impounding a substantial quantity of water;

(3) the Fort Randall and Big Bend projects overlie the [western] eastern boundary of the Lower Brule Indian Reservation, having inundated the fertile, wooded bottom lands of the Tribe along the Missouri River that constituted the most productive agricultural and pastoral lands of the Lower Brule Sioux Tribe and the homeland of the members of the Tribe;

(4) Public Law 85-923 (72 Stat. 1773 et seq.) authorized the acquisition of 7,997 acres of Indian land on the Lower Brule Indian Reservation for the Fort Randall project and Public Law 87-734 (76 Stat. 698 et seq.) authorized the acquisition of 14,299 acres of Indian land on the Lower Brule Indian Reservation for the Big Bend project;

(5) Public Law 87-734 (76 Stat. 698 et seq.) provided for the mitigation of the effects of the Fort Randall and Big Bend projects on the Lower Brule Indian Reservation, by directing the Secretary of the Army to—

(A) as necessary, by reason of the Big Bend project, protect, replace, relocate, or reconstruct—

(i) any essential governmental and agency facilities on the reservation, including schools, hospitals, offices of the Public Health Service and the Bureau of Indian Affairs, service buildings, and employee quarters existing at the time that the projects were carried out; and

(ii) roads, bridges, and incidental matters or facilities in connection with those facilities;

(B) provide for a townsite adequate for 50 homes, including streets and utilities (including water, sewage, and electricity), taking into account the reasonable future growth of the townsite; and

(C) provide for a community center containing space and facilities for community gatherings, tribal offices, tribal council chamber, offices of the Bureau of Indian Affairs, offices and quarters of the Public Health Service, and a combination gymnasium and auditorium;

(6) the requirements under Public Law 87-734 (76 Stat. 698 et seq.) with respect to the mitigation of the effects of the Fort Randall and Big Bend projects on the Lower Brule Indian Reservation have not been fulfilled;

(7) although the national economy has benefited from the Fort Randall and Big Bend projects, the economy on the Lower Brule Indian Reservation remains underdeveloped, in part as a consequence of the failure of the Federal Government to fulfill the obligations of the Federal Government under the laws referred to in paragraph (4);

(8) the economic and social development and cultural preservation of the Lower Brule Sioux Tribe will be enhanced by increased tribal participation in the benefits of the Fort Randall and Big Bend components of the Pick-Sloan Missouri River Basin program; and

(9) the Lower Brule Sioux Tribe is entitled to additional benefits of the Pick-Sloan Missouri River Basin program.

#### SEC. 3. DEFINITIONS.

In this Act:

(1) **FUND.**—The term "Fund" means the Lower Brule Sioux Tribe Infrastructure Development Trust Fund established under section 4(a).

(2) **PLAN.**—The term "plan" means the plan for socioeconomic recovery and cultural preservation prepared under section 5.

(3) **PROGRAM.**—The term "Program" means the power program of the Pick-Sloan Missouri River Basin program, administered by the Western Area Power Administration.

(4) **SECRETARY.**—The term "Secretary" means the Secretary of the Interior.

(5) **TRIBE.**—The term "Tribe" means the Lower Brule Sioux Tribe of Indians, a band of the Great Sioux Nation recognized by the United States of America.

#### SEC. 4. ESTABLISHMENT OF LOWER BRULE SIOUX TRIBE INFRASTRUCTURE DEVELOPMENT TRUST FUND.

(a) **LOWER BRULE SIOUX TRIBE INFRASTRUCTURE DEVELOPMENT TRUST FUND.**—There is

established in the Treasury of the United States a fund to be known as the "Lower Brule Sioux Tribe Infrastructure Development Trust Fund".

(b) FUNDING.—Beginning with fiscal year [immediately following the fiscal year during which the aggregate of the amounts deposited in the Crow Creek Sioux Tribe Infrastructure Development Trust Fund is equal to the amount specified in section 4(b) of the Crow Creek Sioux Tribe Infrastructure Development Trust Fund Act of 1996 (110 Stat. 3026 et seq.)] 1998, and for each fiscal year thereafter, until such time as the aggregate of the amounts deposited in the Fund is equal to \$39,300,000, the Secretary of the Treasury shall deposit into the Fund an amount equal to 25 percent of the receipts from the deposits to the Treasury of the United States for the preceding fiscal year from the Program.

(c) INVESTMENTS.—The Secretary of the Treasury shall invest the amounts deposited under subsection (b) only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States.

(d) PAYMENT OF INTEREST TO TRIBE.—

(1) ESTABLISHMENT OF ACCOUNT AND TRANSFER OF INTEREST.—The Secretary of the Treasury shall, in accordance with this subsection, transfer any interest that accrues on amounts deposited under subsection (b) into a separate account established by the Secretary of the Treasury in the Treasury of the United States.

(2) PAYMENTS.—

(A) IN GENERAL.—Beginning with the fiscal year immediately following the fiscal year during which the aggregate of the amounts deposited in the Fund is equal to the amount specified in subsection (b), and for each fiscal year thereafter, all amounts transferred under paragraph (1) shall be available, without fiscal year limitation, to the Secretary of the Interior for use in accordance with subparagraph (C).

(B) WITHDRAWAL AND TRANSFER OF FUNDS.—For each fiscal year specified in subparagraph (A), the Secretary of the Treasury shall withdraw amounts from the account established under paragraph (1) and transfer such amounts to the Secretary of the Interior for use in accordance with subparagraph (C). The Secretary of the Treasury may only withdraw funds from the account for the purpose specified in this paragraph.

(C) PAYMENTS TO TRIBE.—The Secretary of the Interior shall use the amounts transferred under subparagraph (B) only for the purpose of making payments to the Tribe.

(D) USE OF PAYMENTS BY TRIBE.—The Tribe shall use the payments made under subparagraph (C) only for carrying out projects and programs pursuant to the plan prepared under section 5.

(3) PROHIBITION ON PER CAPITA PAYMENTS.—No portion of any payment made under this subsection may be distributed to any member of the Tribe on a per capita basis.

(e) TRANSFERS AND WITHDRAWALS.—Except as provided in subsection (d)(1), the Secretary of the Treasury may not transfer or withdraw any amount deposited under subsection (b).

#### SEC. 5. PLAN FOR SOCIOECONOMIC RECOVERY AND CULTURAL PRESERVATION.

(a) PLAN.—

(1) IN GENERAL.—The Tribe shall, not later than 2 years after the date of enactment of this Act, prepare a plan for the use of the payments made to the Tribe under section 4(d)(2). In developing the plan, the Tribe shall consult with the Secretary of the Interior and the Secretary of Health and Human Services.

(2) REQUIREMENTS FOR PLAN COMPONENTS.—The plan shall, with respect to each component of the plan—

(A) identify the costs and benefits of that component; and

(B) provide plans for that component.

(b) CONTENT OF PLAN.—The plan shall include the following programs and components:

(1) EDUCATIONAL FACILITY.—The plan shall provide for an educational facility to be located on the Lower Brule Indian Reservation.

(2) COMPREHENSIVE INPATIENT AND OUTPATIENT HEALTH CARE FACILITY.—The plan shall provide for a comprehensive inpatient and outpatient health care facility to provide essential services that the Secretary of Health and Human Services, in consultation with the individuals and entities referred to in subsection (a)(1), determines to be—

(A) needed; and

(B) unavailable through facilities of the Indian Health Service on the Lower Brule Indian Reservation in existence at the time of the determination.

(3) WATER SYSTEM.—The plan shall provide for the construction, operation, and maintenance of a municipal, rural, and industrial water system for the Lower Brule Indian Reservation.

(4) RECREATIONAL FACILITIES.—The plan shall provide for recreational facilities suitable for high-density recreation at Lake Sharpe at Big Bend Dam and at other locations on the Lower Brule Indian Reservation in South Dakota.

(5) OTHER PROJECTS AND PROGRAMS.—The plan shall provide for such other projects and programs for the educational, social welfare, economic development, and cultural preservation of the Tribe as the Tribe considers to be appropriate.

#### SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such funds as may be necessary to carry out this Act, including such funds as may be necessary to cover the administrative expenses of the Fund.

#### SEC. 7. EFFECT OF PAYMENTS TO TRIBE.

(a) IN GENERAL.—No payment made to the Tribe pursuant to this Act shall result in the reduction or denial of any service or program to which, pursuant to Federal law—

(1) the Tribe is otherwise entitled because of the status of the Tribe as a federally recognized Indian tribe; or

(2) any individual who is a member of the Tribe is entitled because of the status of the individual as a member of the Tribe.

(b) EXEMPTIONS; STATUTORY CONSTRUCTION.—

(1) POWER RATES.—No payment made pursuant to this Act shall affect Pick-Sloan Missouri River Basin power rates.

(2) STATUTORY CONSTRUCTION.—Nothing in this Act may be construed as diminishing or affecting—

(A) any right of the Tribe that is not otherwise addressed in this Act; or

(B) any treaty obligation of the United States.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the committee amendments be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendments were agreed to.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the bill, as

amended, be read a third time and passed, and the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 156), as amended, was read a third time and passed.

#### FEDERAL JUDICIARY PROTECTION ACT OF 1997

Mr. SESSIONS. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 203, S. 1189.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1189) to increase the criminal penalties for assaulting or threatening Federal judges, their family members, and other public servants, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 1624

(Purpose: To increase the maximum term of imprisonment for assaulting, resisting, or impeding certain officers or employees)

Mr. SESSIONS. There is an amendment at the desk submitted by Senator FEINSTEIN, and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alabama [Mr. SESSIONS], for Mrs. FEINSTEIN, proposes an amendment numbered 1624.

Mr. SESSIONS. I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, line 6, strike "8" and insert "12".

Mr. SESSIONS. I ask unanimous consent the amendment be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 1624) was agreed to.

Mr. LEAHY. Mr. President, I delighted that the Senate is about to pass the Federal Judiciary Protection Act of 1997, S. 1189. I am a proud cosponsor of this legislation.

This legislation would provide greater protection to Federal judges, law enforcement officers and their families. Specifically, our legislation would: increase the maximum prison term for forcible assaults, resistance, opposition, intimidation or interference with a Federal judge or law enforcement officer from 3 years imprisonment to 8 years; increase the maximum prison term for use of a deadly weapon or infliction of bodily injury against a Federal judge or law enforcement officer

from 10 years imprisonment to 20 years; and increase the maximum prison term for threatening murder or kidnapping of a member of the immediate family of a Federal judge or law enforcement officer from 5 years imprisonment to 10 years. It has the support of the Department of Justice, the United States Judicial Conference, the United States Sentencing Commission and the United States Marshal Service.

It is most troubling that the greatest democracy in the world needs this legislation to protect the hard working men and women who serve in our Federal judiciary and other law enforcement agencies. But, unfortunately, we are seeing more violence and threats of violence against officials of our Federal government.

Earlier this year, for example, a courtroom in Urbana, Illinois was firebombed, apparently by a disgruntled litigant. This follows the horrible tragedy of the bombing of the federal office building in Oklahoma City two years ago. More recently in my home state, a Vermont border patrol officer, John Pfeiffer, was seriously wounded by Carl Drega, during a shootout with Vermont and New Hampshire law enforcement officers in which Drega lost his life. Earlier that day, Drega shot and killed two state troopers and a local judge in New Hampshire. Apparently, Drega was bent on settling a grudge against the judge who had ruled against him in a land dispute.

I had a chance to visit John Pfeiffer in the hospital and met his wife and young daughter. Thankfully, Agent Pfeiffer has returned to work along the Vermont border. As a federal law enforcement officer, Agent Pfeiffer and his family will receive greater protection under our bill.

There is, of course, no excuse or justification for someone taking the law into their own hands and attacking or threatening a judge or law enforcement officer. Still, the U.S. Marshal Service is concerned with more and more threats of harm to our judges and law enforcement officers.

The extreme rhetoric that some are using to attack the judiciary only feeds into this hysteria. For example, one of the Republican leaders in the House of Representatives was recently quoted as saying: "The judges need to be intimidated," and if they do not behave, "we're going to go after them in a big way." I know that House Republican Whip TOM DELAY was not intending to encourage violence against any Federal official, but this extreme rhetoric only serves to degrade Federal judges in the eyes of the public.

Let none of us in the Congress contribute to the atmosphere of hate and violence. Let us treat the judicial branch and those who serve within it with the respect that is essential to its preserving its public standing.

We have the greatest judicial system in the world, the envy of people and

countries around the world that are struggling for freedom. It is the independence of our third, co-equal branch of government that gives it the ability to act fairly and impartially. It is our judiciary that has for so long protected our fundamental rights and freedoms and served as a necessary check on overreaching by the other two branches, those more susceptible to the gusts of the political winds of the moment.

We are fortunate to have dedicated women and men throughout the Federal Judiciary and law enforcement in this country who do a tremendous job under difficult circumstances. They are examples of the hard-working public servants that make up the federal government, who are too often maligned and unfairly disparaged. It is unfortunate that it takes acts or threats of violence to put a human face on the Federal Judiciary and other law enforcement officials, to remind everyone that these are people with children and parents and cousins and friends. They deserve our respect and our protection.

Mr. SESSIONS. I ask unanimous consent that the bill, as amended, be deemed read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The bill (S. 1189), as amended, was deemed read the third time and passed, as follows:

#### S. 1189

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Judiciary Protection Act of 1997".

#### SEC. 2. ASSAULTING, RESISTING, OR IMPEDING CERTAIN OFFICERS OR EMPLOYEES.

Section 111 of title 18, United States Code, is amended—

(1) in subsection (a), by striking "three" and inserting "12"; and

(2) in subsection (b), by striking "ten" and inserting "20".

#### SEC. 3. INFLUENCING, IMPEDING, OR RETALIATING AGAINST A FEDERAL OFFICIAL BY THREATENING OR INJURING A FAMILY MEMBER.

Section 115(b)(4) of title 18, United States Code, is amended—

(1) by striking "five" and inserting "10"; and

(2) by striking "three" and inserting "6".

#### SEC. 4. MAILING THREATENING COMMUNICATIONS.

Section 876 of title 18, United States Code, is amended—

(1) by designating the first 4 undesignated paragraphs as subsections (a) through (d), respectively;

(2) in subsection (c), as so designated, by adding at the end the following: "If such a communication is addressed to a United States judge, a Federal law enforcement officer, or an official who is covered by section 1114, the individual shall be fined under this title, imprisoned not more than 10 years, or both."; and

(3) in subsection (d), as so designated, by adding at the end the following: "If such a

communication is addressed to a United States judge, a Federal law enforcement officer, or an official who is covered by section 1114, the individual shall be fined under this title, imprisoned not more than 10 years, or both."

#### SEC. 5. AMENDMENT OF THE SENTENCING GUIDELINES FOR ASSAULTS AND THREATS AGAINST FEDERAL JUDGES AND CERTAIN OTHER FEDERAL OFFICIALS AND EMPLOYEES.

(a) IN GENERAL.—Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall review and amend the Federal sentencing guidelines and the policy statements of the commission, if appropriate, to provide an appropriate sentencing enhancement for offenses involving influencing, assaulting, resisting, impeding, retaliating against, or threatening a Federal judge, magistrate judge, or any other official described in section 111 or 115 of title 18, United States Code.

(b) FACTORS FOR CONSIDERATION.—In carrying out this section, the United States Sentencing Commission shall consider, with respect to each offense described in subsection (a)—

(1) any expression of congressional intent regarding the appropriate penalties for the offense;

(2) the range of conduct covered by the offense;

(3) the existing sentences for the offense;

(4) the extent to which sentencing enhancements within the Federal sentencing guidelines and the court's authority to impose a sentence in excess of the applicable guideline range are adequate to ensure punishment at or near the maximum penalty for the most egregious conduct covered by the offense;

(5) the extent to which Federal sentencing guideline sentences for the offense have been constrained by statutory maximum penalties;

(6) the extent to which Federal sentencing guidelines for the offense adequately achieve the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code;

(7) the relationship of Federal sentencing guidelines for the offense to the Federal sentencing guidelines for other offenses of comparable seriousness; and

(8) any other factors that the Commission considers to be appropriate.

#### NATIONAL AMERICAN INDIAN HERITAGE MONTH

Mr. SESSIONS. I ask unanimous consent the Judiciary Committee be discharged from further consideration of S. Res. 145 and the Senate proceed to its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 145) designating the month of November 1997 as "National American Indian Heritage Month."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. SESSIONS. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and

that any statements relating to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The preamble was agreed to.

The resolution (S. Res. 145) was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 145

Whereas American Indians and Alaska Natives were the original inhabitants of the land that now constitutes the United States;

Whereas American Indian tribal governments developed the fundamental principles of freedom of speech and separation of powers that form the foundation of the United States Government;

Whereas American Indians and Alaska Natives have traditionally exhibited a respect for the finiteness of natural resources through a reverence for the earth;

Whereas American Indians and Alaska Natives have served with valor in all of America's wars beginning with the Revolutionary War through the conflict in the Persian Gulf, and often the percentage of American Indians who served exceeded significantly the percentage of American Indians in the population of the United States as a whole;

Whereas American Indians and Alaska Natives have made distinct and important contributions to the United States and the rest of the world in many fields, including agriculture, medicine, music, language, and art;

Whereas American Indians and Alaska Natives deserve to be recognized for their individual contributions to the United States as local and national leaders, artists, athletes, and scholars;

Whereas this recognition will encourage self-esteem, pride, and self-awareness in American Indians and Alaska Natives of all ages; and

Whereas November is a time when many Americans commemorate a special time in the history of the United States when American Indians and English settlers celebrated the bounty of their harvest and the promise of new kinships: Now, therefore, be it

*Resolved*, That the Senate designates November 1997 as "National American Indian Heritage Month" and requests that the President issue a proclamation calling on the Federal Government and State and local governments, interested groups and organizations, and the people of the United States to observe the month with appropriate programs, ceremonies, and activities.

SENATE LEGAL COUNSEL  
REPRESENTATION

Mr. SESSIONS. I ask unanimous consent the Senate proceed en bloc to the immediate consideration of three Senate resolutions, S. Res. 152, S. Res. 153, and S. Res. 154, which were submitted earlier today by Senators LOTT and DASCHLE. I further ask consent that the resolutions be agreed to, the preambles be agreed to, and statements relating to these resolutions be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolutions (S. Res. 152, S. Res. 153, and S. Res. 154), en bloc, were agreed to.

The preambles were agreed to.

The resolutions, with their preambles, read as follows:

S. RES. 152

Whereas, in the cases of *City of New York, et al. v. William Clinton, et al.*, Civ. No. 97-2393, *National Treasury Employees Union, et al. v. United States, et al.*, Civ. No. 97-2399, and *Snake River Potato Growers, Inc., et al. v. Robert Rubin*, Civ. No. 97-2463, all pending in the United States District Court for the District of Columbia, the constitutionality of the Line Item Veto Act, Pub. L. No. 104-130, 110 Stat. 1200 (1996), has been placed in issue;

Whereas, pursuant to sections 703(c), 706(a), and 713(a) of the Ethics in Government Act of 1978, 2 U.S.C. 288b(c), 288e(a), and 288f(a), the Senate may direct its counsel to appear as amicus curiae in the name of the Senate in any legal action in which the powers and responsibilities of Congress under the Constitution are placed in issue: Now, therefore, be it

*Resolved*, That the Senate Legal Counsel is directed to appear as amicus curiae on behalf of the Senate in the cases of *City of New York, et al. v. William Clinton, et al.*; *National Treasury Employees Union, et al. v. United States, et al.*; and *Snake River Potato Growers, Inc., et al. v. Robert Rubin*, to defend the constitutionality of the Line Item Veto Act.

SEC. 2. That while the Senate is adjourned the Senate Legal Counsel is authorized to appear as amicus curiae on behalf of the Senate in other cases in which the constitutionality of the Line Item Veto Act is placed in issue: *Provided*, That the Joint Leadership Group authorizes the Senate Legal Counsel to appear as amicus curiae on behalf of the Senate in such other cases.

Mr. LOTT. Mr. President, last year, after years of legislative consideration and debate, Congress enacted into law the Line Item Veto Act. For the next several years, this act gives the President authority, within carefully circumscribed limits, to cancel particular items of appropriation, direct spending, or limited tax benefits. The President must send Congress a special message reporting his cancellations within five days after he approves the bill containing the spending or tax provisions, and Congress may then consider, under expedited procedures, whether to pass a new law disapproving the President's cancellation.

Congress delegated this responsibility to the President as a means of furthering our goal of balancing the federal budget. Congress's enactment of the Line Item Veto Act followed vigorous debate in the Senate, in which some opponents raised doubts about the law's constitutionality. All Members recognized that these constitutional questions likely ultimately would be resolved only in the Supreme Court.

Last January, the day after the law took effect, in the case of *Byrd v. Raines*, six of our colleagues filed suit challenging the constitutionality of the Line Item Veto Act. On January 22, 1997, the Senate directed the Senate Legal Counsel to appear on behalf of the Senate as amicus curiae in *Byrd v. Raines* to defend the constitutionality of the Line Item Veto Act. In June the Supreme Court dismissed the case on

the basis that the plaintiffs lacked legal standing to bring their suit. The Court did not address the constitutional question.

In August, the President began using the Line Item Veto Act's cancellation authority for the first time. As a result of the President's cancellations, three new actions have recently been filed in the United States District Court for the District of Columbia again challenging the constitutionality of the Act. The plaintiffs assert that the Act violates the lawmaking provisions of Article I of the Constitution by authorizing the President to nullify the effect of portions of recently enacted laws. These challenges call into question the full range of cancellation authority provided by Congress in the Act, as the three cases address direct spending, discretionary appropriations, and limited tax benefits, respectively.

Mr. President, as with the Senate's appearance amicus curiae in *Byrd v. Raines*, appearance in these cases as an amicus curiae would again enable the Senate to present to the courts its reasons for enacting the Line Item Veto Act and the basis for the Senate's conviction that the law is consistent with the Constitution. Accordingly, this resolution would authorize the Senate Legal Counsel to appear in these cases in the name of the Senate as amicus curiae to support the constitutionality of the Line Item Veto Act.

The Senate would not take a position on questions about the legal standing of any of these plaintiffs, as it did not in the prior litigation. However, as in the earlier litigation, the Senate Legal Counsel will be expected to describe to the courts, in the course of supporting the constitutionality of the Line Item Veto Act, the statutory limits embodied in the Act that constrain the President's use of this authority to the particular circumstances and conditions carefully prescribed by the Act.

Finally, this resolution also would authorize the Senate Legal Counsel to appear in the name of the Senate as amicus curiae to support the constitutionality of the Line Item Veto Act in any other cases challenging the constitutionality of the Act that may occur during the adjournment of the Senate, if authorized to do so by the Joint Leadership Group. This is the procedure the Senate has used in the past to protect its legal interests during adjournments.

S. RES. 153

Whereas, in the case of *Sherry Yvonne Moore v. Capitol Guide Board*, Case No. 1:97CV00823, pending in the United States District Court for the District of Columbia, a subpoena has been issued for the production of documents of the Sergeant-at-Arms and Doorkeeper of the Senate;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. 288b(a) and 288c(a)(2), the Senate may direct its counsel to represent Members, officers, and employees of the Senate

with respect to any subpoena, order, or request for testimony or document production relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate: Now, therefore, be it

*Resolved*, That the Sergeant-at-Arms and Doorkeeper of the Senate is authorized to produce documents relevant to the case of *Sherry Yvonne Moore v. Capitol Guide Board*, except where a privilege should be asserted.

SEC. 2. That the Senate Legal Counsel is authorized to represent the Sergeant-at-Arms and Doorkeeper of the Senate in connection with the production of documents in this case.

Mr. LOTT. Mr. President, the case of *Sherry Yvonne Moore v. Capitol Guide Board*, pending in the United States District Court for the District of Columbia under the Congressional Accountability Act, involves claims of employment discrimination by the plaintiff, former employee of the Sergeant-at-Arms who worked for the Capitol Guide Service.

The plaintiff in this case has issued a subpoena for documents to the Senate Sergeant-at-Arms. The enclosed resolution would authorize the Sergeant at Arms to produce such documents, except where a privilege or objection should be asserted. It would also authorize the Senate Legal Counsel to represent the Sergeant-at-Arms in connection with the production of such documents.

#### S. RES. 154

Whereas, in the case of *Magee, et al. v. Hatch, et al.*, No. 97-CV02203, pending in the United States District Court for the District of Columbia, the plaintiffs have named Senator Orrin Hatch as a defendant;

Whereas, pursuant to sections 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(1) (1994), the Senate may direct its counsel to defend its Members in civil actions relating to their official responsibilities: Now, therefore, be it

*Resolved*, That the Senate Legal Counsel is authorized to represent Senator Hatch in the case of *Magee, et al. v. Hatch, et al.*

Mr. LOTT. Mr. President, *Magee, et al. v. Hatch, et al.* is an action arising out of Congress' enactment of the Anti-Terrorism and Effective Death Penalty Act of 1996. The suit names Senator ORRIN G. HATCH and Speaker of the House NEWT GINGRICH as the sole defendants. This resolution authorizes the Senate Legal Counsel to represent Senator HATCH in this matter. If so authorized, the Senate Legal Counsel will seek dismissal of the complaint.

#### MAMMOGRAPHY QUALITY STANDARDS REAUTHORIZATION ACT

Mr. SESSIONS. I ask unanimous consent that the Labor and Human Re-

sources Committee be discharged from further consideration of S. 537 and that the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 537) to amend title III of the Public Health Service Act to revise and extend the mammography quality standards program.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. SESSIONS. I ask unanimous consent the bill be read three times and passed, the motion to reconsider be laid upon the table, and any statements relating thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 537) was deemed read the third time and passed, as follows:

#### S. 537

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Mammography Quality Standards Reauthorization Act".

#### SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Subparagraphs (A) and (B) of section 354(r)(2) of the Public Health Service Act (42 U.S.C. 263b(r)(2) (A) and (B)) are each amended by striking "1997" and inserting "2002".

(b) TECHNICAL AMENDMENT.—Section 354(r)(2)(A) of the Public Health Service Act (42 U.S.C. 263b(r)(2)(A)) is amended by striking "subsection (q)" and inserting "subsection (p)".

#### SEC. 3. APPLICATION OF CURRENT VERSION OF APPEAL REGULATIONS.

Section 354(d)(2)(B) of the Public Health Service Act (42 U.S.C. 263b(d)(2)(B)) is amended by striking "and in effect on the date of enactment of this section".

#### SEC. 4. CLARIFICATION OF FACILITIES' RESPONSIBILITY TO RETAIN MAMMOGRAM RECORDS.

Section 354(f)(1)(G) of the Public Health Service Act (42 U.S.C. 263b(f)(1)(G)) is amended by striking clause (i) and inserting the following:

"(i) a facility that performs any mammogram—

"(I) except as provided in subclause (II), maintain the mammogram in the permanent medical records of the patient for a period of not less than 5 years, or not less than 10 years if no additional mammograms of such patient are performed at the facility, or longer if mandated by State law; and

"(II) upon the request of or on behalf of the patient, forward the mammogram to a medical institution or a physician of the patient; and"

#### SEC. 5. SCOPE OF INSPECTIONS.

Section 354(g)(1)(A) of the Public Health Service Act (42 U.S.C. 263b(g)(1)(A)) is amended in the first sentence—

(1) by striking "certified"; and

(2) by inserting "the certification requirements under subsection (b) and" after "compliance with".

#### SEC. 6. CLARIFICATION OF AUTHORITY TO DELEGATE INSPECTION RESPONSIBILITY TO LOCAL GOVERNMENT AGENCIES.

Section 354 of the Public Health Service Act (42 U.S.C. 263b) is amended—

(1) in subsections (a)(4), (g)(1), (g)(3), and (g)(4), by inserting "or local" after "State" each place it appears;

(2) in the heading of subsection (g)(3), by inserting "OR LOCAL" after "STATE"; and

(3) in subsection (i)(1)(D)—

(A) by inserting "or local" after "State" the first place it appears; and

(B) by inserting "or local agency" after "State" the second place it appears.

#### SEC. 7. PATIENT NOTIFICATION CONCERNING HEALTH RISKS.

(a) REQUIREMENT.—Section 354(h) of the Public Health Service Act (42 U.S.C. 263b(h)) is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(2) by inserting after paragraph (1) the following:

"(2) PATIENT INFORMATION.—If the Secretary determines that the quality of mammography performed by a facility (whether or not certified pursuant to subsection (c)) was so inconsistent with the quality standards established pursuant to subsection (f) as to present a significant risk to individual or public health, the Secretary may require such facility to notify patients who received mammograms at such facility, and their referring physicians, of the deficiencies presenting such risk, the potential harm resulting, appropriate remedial measures, and such other relevant information as the Secretary may require."

(b) CIVIL MONEY PENALTY.—Section 354(h)(3) of the Public Health Service Act (42 U.S.C. 263b(h)(3)), as so redesignated, is amended—

(1) by striking "and" at the end of subparagraph (B);

(2) by redesignating subparagraph (C) as subparagraph (D); and

(3) by inserting after subparagraph (B) the following:

"(C) each failure to notify a patient of risk as required by the Secretary pursuant to paragraph (2), and"

#### SEC. 8. REQUIREMENT TO COMPLY WITH INFORMATION REQUESTS.

Section 354(i)(1)(C) of the Public Health Service Act (42 U.S.C. 263b(i)(1)(C)) is amended—

(1) by inserting after "Secretary", the first place it appears "(or of an accreditation body approved pursuant to subsection (e))"; and

(2) by inserting after "Secretary", the second place it appears "(or such accreditation body or certifying entity)".

#### SEC. 9. ADJUSTMENT TO SEVERITY OF SANCTIONS.

Section 354(i)(2)(A) of the Public Health Service Act (42 U.S.C. 263b(i)(2)(A)) is amended by striking "makes the finding" and all that follows and inserting the following: "has reason to believe that the circumstance of the case will support one or more of the findings described in paragraph (1) and that—

"(i) the failure or violation was intentional, or

"(ii) the failure or violation presents a serious risk to human health."

#### SEC. 10. TECHNICAL AMENDMENT.

Section 354(q)(4)(B) of the Public Health Service Act (42 U.S.C. 263b(q)(4)(B)) is amended by striking "accredited" and inserting "certified".

UNANIMOUS-CONSENT  
AGREEMENTS—S. 1216 AND S. 629

Mr. SESSIONS. I ask unanimous consent that S. 1216, as reported by the Finance Committee, be referred to the Commerce Committee for the consideration of matters within its jurisdiction for a period not to exceed 10 calendar days. I further ask consent if the bill is not reported at that time, the bill be immediately discharged and placed on the calendar.

I further ask unanimous consent that S. 629 be discharged from the Commerce Committee and that the bill then be referred to the Senate Finance Committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

DAVID DYER FEDERAL  
COURTHOUSE

J. ROY ROWLAND COURTHOUSE

Mr. SESSIONS. Mr. President, I ask unanimous consent the Environmental and Public Works Committee be discharged from further consideration of the H.R. 1479 and H.R. 1484, and further, the Senate proceed to their consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1479) to designate the Federal building and United States courthouse located at 300 Northeast Frist Avenue in Miami, Florida, as the "David W. Dyer Federal Building and United States Courthouse."

A bill (H.R. 1484) to redesignate the United States courthouse located at 100 Franklin Street in Dublin, Georgia, as the "J. Roy Rowland United States Courthouse."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bills?

There being no objection, the Senate proceeded to consider the bills.

Mr. SESSIONS. Mr. President, I further ask unanimous consent the bills be read the third time and passed, the motions to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bills (H.R. 1479 and H.R. 1484) were passed.

AMENDING THE NATIONAL  
DEFENSE AUTHORIZATION ACT

Mr. SESSIONS. I ask unanimous consent the Senate now proceed to consideration of S. 1507, introduced earlier today by Senator THURMOND.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1507) to amend the National Defense Authorization Act for fiscal year 1998 to make certain technical corrections.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. SESSIONS. I ask unanimous consent that bill be deemed read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1507) was read the third time and passed, as follows:

S. 1507

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. TECHNICAL CORRECTIONS.

(a) IMPLEMENTATION OF ELECTRONIC COMMERCE CAPABILITY.—(1) Section 2302c(a)(1) of title 10, United States Code, is amended by inserting "of section 2303(a) of this title" after "paragraphs (1), (5) and (6)".

(2) The amendment made by paragraph (1) shall take effect as if included in the amendment to section 2302c of title 10, United States Code, made by section 850(f)(3)(A) of the National Defense Authorization Act for Fiscal Year 1996 to which the amendment made by paragraph (1) relates.

(b) COMMEMORATION OF 50TH ANNIVERSARY OF KOREAN CONFLICT.—(1) Section 1083(f) of the National Defense Authorization Act for Fiscal Year 1998 is amended by striking out "\$100,000" and inserting in lieu thereof "\$1,000,000".

(2) The amendment made by paragraph (1) shall take effect as if included in the provisions of the National Defense Authorization Act for Fiscal Year 1998 to which such amendment relates.

AMENDING SECTION 3165 OF THE  
NATIONAL DEFENSE AUTHORIZATION  
ACT FOR FISCAL YEAR 1998

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. 1511, introduced earlier today by Senator THURMOND.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1511) to amend section 3165 of the National Defense Authorization Act for fiscal year 1998 to clarify the authority in the section.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. SESSIONS. I ask unanimous consent that the bill be deemed read the third time, and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1511) was deemed read the third time, and passed, as follows:

S. 1511

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. CLARIFICATION OF AUTHORITY.

(a) CLARIFICATION.—Section 3165 of the National Defense Authorization Act of Fiscal Year 1998 is amended—

(1) in subsection (b)(1), by striking out "under the jurisdiction" and all that follows through "Los Alamos National Laboratory" and inserting in lieu thereof "under the jurisdiction or administrative control of the Secretary at or in the vicinity of Los Alamos National Laboratory"; and

(2) in subsection (e), by striking out "the Secretary of the Interior" and all that follows through the end and inserting in lieu thereof "but not later than 90 days after the submittal of the report under subsection (d)(1)(C), the County and the Pueblo shall submit to the Secretary an agreement between the County and the Pueblo which allocates between the County and the Pueblo the parcels identified for conveyance or transfer under subsection (b)."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in the provisions of section 3165 of the National Defense Authorization Act for Fiscal Year 1998 to which such amendments relate.

ELIGIBLE TELECOMMUNICATIONS  
CARRIERS ACT OF 1997

Mr. SESSIONS. I ask unanimous consent that the Senate now proceed to the consideration of calendar No. 289, S. 1354.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1354) to amend the Communications Act of 1934 to provide for the designation of common carriers not subject to the jurisdiction of a State commission as eligible telecommunications carriers.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the bill be considered read the third time, and passed, the motion to reconsider laid upon the table, and that any statements relating to the bill appear at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1354) was considered read the third time, and passed, as follows:

S. 1354

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. AMENDMENT OF COMMUNICATIONS  
ACT OF 1934.

Section 214(e) of the Communications Act of 1934 (47 U.S.C. 214(e)) is amended—

(1) by striking "(2) or (3)" in paragraph (1) and inserting "(2), (3), or (6)";

(2) by striking "interstate services," in paragraph (3) and inserting "interstate services or an area served by a common carrier to which paragraph (6) applies,";

(3) by inserting "(or the Commission in the case of a common carrier designated under paragraph (6))" in paragraph (4) after "State commission" each place such term appears;

(4) by inserting "(or the Commission under paragraph (6))" in paragraph (5) after "State commission"; and

(5) by inserting after paragraph (5) the following:

"(6) COMMON CARRIERS NOT SUBJECT TO STATE COMMISSION JURISDICTION.—In the case of a common carrier providing telephone exchange service and exchange access that is not subject to the jurisdiction of a State commission, the Commission shall upon request designate such a common carrier that meets the requirements of paragraph (1) as an eligible telecommunications carrier for a service area designated by the Commission consistent with applicable federal and State law. Upon request and consistent with the public interest, convenience and necessity, the Commission may, with respect to an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier for a service area designated under this paragraph, so long as each additional requesting carrier meets the requirements of paragraph (1). Before designating an additional eligible telecommunications carrier for an area served by a rural telephone company, the Commission shall find that the designation is in the public interest."

#### DISTRIBUTION OF JUDGMENT FUNDS OF THE OTTAWA AND CHIPPEWA INDIANS OF MICHIGAN

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 1604 just received from the House.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows: A bill (H.R. 1604) to provide for the division, use, and distribution of judgment funds of the Ottawa and Chippewa Indians of Michigan, pursuant to dockets 18-E, 58, 364, and 18-R before the Indian Claims Commission.

#### AMENDMENTS NOS. 1625, 1626, 1627, EN BLOC

Mr. SESSIONS. Mr. President, I send two amendments, en bloc, to the desk on behalf of Mr. MURKOWSKI and Mr. INOUE and ask for their immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alabama [Mr. SESSIONS], for Mr. MURKOWSKI and Mr. INOUE, proposes amendments numbered 1625, 1626, 1627, en bloc.

Mr. SESSIONS. Mr. President, I ask unanimous consent that further reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

#### AMENDMENT NO. 1625

(Purpose: To limit the number of health care contracts and compacts that the Indian Health Service may execute for the Ketchikan Gateway Borough)

At the appropriate place, insert:

#### SECTION 1. FINDINGS.

Congress finds that—

(1) the execution of more than 1 contract or compact between an Alaska native village

or regional or village corporation in the Ketchikan Gateway Borough and the Secretary to provide for health care services in an area with a small population leads to duplicative and wasteful administrative costs; and

(2) incurring the wasteful costs referred to in paragraph (1) leads to decrease in the quality of health care that is provided to Alaska Natives in an affected area.

#### SECTION 2. DEFINITIONS.

In this Act:

(1) ALASKA NATIVE.—The term "Alaska Native" has the meaning given the term "Native" in section 3(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(b)).

(2) ALASKA NATIVE VILLAGE OR REGIONAL OR VILLAGE CORPORATION.—The term "Alaska native village or regional or village corporation" means an Alaska native village or regional or village corporation defined in, or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

(3) CONTRACT; COMPACT.—The terms "contract" and "compact" mean a self-determination contract and a self-governance compact as these terms are defined in the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

(4) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

#### SEC. 3. LIMITATION.

(a) IN GENERAL.—The Secretary shall take such action as may be necessary to ensure that, in considering a renewal of a contract or compact, or signing of a new contract or compact for the provision of health care services in the Ketchikan Gateway Borough, there will be only one contract or compact in effect.

(b) CONSIDERATION.—In any case in which the Secretary, acting through the Director of the Indian Health Service, is required to select from more than 1 application for a contract or compact described in subsection (a), in awarding the contract or compact, the Secretary shall take into consideration—

- (1) the ability and experience of the applicant;
- (2) the potential for the applicant to acquire and develop the necessary ability; and
- (3) the potential for growth in the health care needs of the covered borough.

#### AMENDMENT NO. 1626

In section 11, strike the section heading and all that follows through "The eligibility" and insert the following:

#### "SEC. 11. TREATMENT OF FUNDS IN RELATION TO OTHER LAWS.

"(a) APPLICABILITY OF PUBLIC LAW 93-134.—All funds distributed under this Act or any plan approved in accordance with this Act, including interest and investment income that accrues on those funds before or while those funds are held in trust, shall be subject to section 7 of Public Law 93-134 (87 Stat. 468).

"(b) TREATMENT OF FUNDS WITH RESPECT TO CERTAIN FEDERAL ASSISTANCE.—The eligibility"

#### AMENDMENT NO. 1627

(Purpose: To provide for a technical correction to Section 2 concerning the Sault Ste. Marie)

On page 2, line 7, of Section 2, delete the word "Tribe" and insert the word "Band".

The PRESIDING OFFICER. The question is on agreeing to the amendments, en bloc.

The amendments (Nos. 1625, 1626, 1627) were agreed to.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the bill, as amended, be considered read the third time, and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed in the RECORD at the appropriate place.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 1604), as amended, was considered read the third time, and passed.

#### TELEMARKETING FRAUD PREVENTION ACT OF 1997

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of calendar No. 206, H.R. 1847.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows: A bill (H.R. 1847) to improve the criminal law relating to fraud against consumers.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Telemarketing Fraud Prevention Act of 1997".

#### SEC. 2. CRIMINAL FORFEITURE OF FRAUD PROCEEDS.

Section 982 of title 18, United States code, is amended—

(1) in subsection (a)—

(A) by redesignating the second paragraph designated as paragraph (6) as paragraph (7); and

(B) by adding at the end the following:

"(8) The Court, in sentencing a defendant convicted of an offense under section 1028, 1029, 1341, 1342, 1343, or 1344, or of a conspiracy to commit such an offense, if the offense involves telemarketing (as that term is defined in section 2325), shall order that the defendant forfeit to the United States any real or personal property—

"(A) used or intended to be used to commit, to facilitate, or to promote the commission of such offense; and

"(B) constituting, derived from, or traceable to the gross proceeds that the defendant obtained directly or indirectly as a result of the offense."; and

(2) in subsection (b)(1)(A), by striking "(a)(1) or (a)(6)" and inserting "(a)(1), (a)(6), or (a)(8)".

#### SEC. 3. PENALTY FOR TELEMARKETING FRAUD.

Section 2326 of title 18, United States Code, is amended by striking "may" each place it appears and inserting "shall".

#### SEC. 4. ADDITION OF CONSPIRACY OFFENSES TO SECTION 2326 ENHANCEMENT.

Section 2326 of title 18, United States Code, is amended by inserting ", or a conspiracy to commit such an offense," after "or 1344".

#### SEC. 5. CLARIFICATION OF MANDATORY RESTITUTION.

Section 2327 of title 18, United States Code, is amended—

(1) in subsection (a), by striking "for any offense under this chapter" and inserting "to all victims of any offense for which an enhanced penalty is provided under section 2326"; and

(2) by striking subsection (c) and inserting the following:

"(c) **VICTIM DEFINED.**—In this section, the term "victim" has the meaning given that term in section 3663A(a)(2)."

**SEC. 6. AMENDMENT OF FEDERAL SENTENCING GUIDELINES.**

(a) **DEFINITION OF TELEMARKETING.**—In this section, the term "telemarketing" has the meaning given that term in section 2326 of title 18, United States Code.

(b) **DIRECTIVE TO SENTENCING COMMISSION.**—Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall—

(1) promulgate Federal sentencing guidelines or amend existing sentencing guidelines (and policy statements, if appropriate) to provide for substantially increased penalties for persons convicted of offenses described in section 2326 of title 18, United States Code, as amended by this Act, in connection with the conduct of telemarketing;

(2) submit to Congress an explanation of each action taken under paragraph (1) and any additional policy recommendations for combating the offenses described in that paragraph.

(c) **REQUIREMENTS.**—In carrying out this section, the Commission shall—

(1) ensure that the guidelines and policy statements promulgated or amended pursuant to subsection (b)(1) and any recommendations submitted thereunder reflect the serious nature of the offenses;

(2) provide an additional appropriate sentencing enhancement if offense involved sophisticated means, including but not limited to sophisticated concealment efforts, such as perpetrating the offense from outside the United States;

(3) provide an additional appropriate sentencing enhancement for cases in which a large number of vulnerable victims, including but not limited to victims described in section 2326(2) of title 18, United States Code, are affected by a fraudulent scheme or schemes;

(4) ensure that guidelines and policy statements promulgated or amended pursuant to subsection (b)(1) are reasonably consistent with other relevant statutory directives to the Commission and with other guidelines;

(5) account for any aggravating or mitigating circumstances that might justify upward or downward departures;

(6) ensure that the guidelines adequately meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code; and

(7) take any other action the Commission considers necessary to carry out this section.

(d) **EMERGENCY AUTHORITY.**—The Commission shall promulgate the guidelines or amendments provided for under this subsection as soon as practicable, and in any event not later than 120 days after the date of enactment of the Telemarketing Fraud Prevention Act of 1997, in accordance with the procedures set forth in section 21(a) of the Sentencing Reform Act of 1987, as though the authority under that authority had not expired, except that the Commission shall submit to Congress the emergency guidelines or amendments promulgated under this section, and shall set an effective date for those guidelines or amendments not earlier than 30 days after their submission to Congress.

AMENDMENT NO. 1628

(Purpose: To prohibit false advertising or misuse of a name to indicate the United States Marshals Service)

Mr. SESSIONS. Mr. President, I send an amendment to the desk on behalf of

Mr. LEAHY and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alabama [Mr. SESSIONS], for Mr. LEAHY, proposes an amendment numbered 1628.

Mr. SESSIONS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

**SEC. . FALSE ADVERTISING OR MISUSE OF NAME TO INDICATE UNITED STATES MARSHALS SERVICE.**

Section 709 of title 18, United States Code, is amended by inserting after the thirteenth undesignated paragraph the following:

"Whoever, except with the written permission of the Director of the United States Marshals Service, knowingly uses the words 'United States Marshals Service', 'U.S. Marshals Service', 'United States Marshal', 'U.S. Marshal', 'U.S.M.S.' or any colorable imitation of any such words, or the likeness of the United States Marshals Service badge, logo, or insignia on any item of apparel, in connection with any advertisement, circular, book, pamphlet, software, or other publication, or any play, motion picture, broadcast, telecast, or other production, in a manner that is reasonably calculated to convey the impression that the wearer of the item of apparel is acting pursuant to the legal authority of the United States Marshals Service, or to convey the impression that such advertisement, circular, book, pamphlet, software, or other publication, or such play, motion picture, broadcast, telecast, or other production, is approved, endorsed, or authorized by the United States Marshals Service;"

Mr. LEAHY. Mr. President, I am glad to support this measure with my amendment to prevent the misuse of the name and likeness of the U.S. Marshals Service.

The U.S. Marshals Service is the Nation's oldest Federal law enforcement agency. Since 1789, U.S. marshals have served the country through a variety of vital law enforcement activities, such as the protection of Federal judicial officials, the apprehension of Federal fugitives, and the transportation of Federal prisoners. Today, approximately 4,000 deputy U.S. marshals and career employees perform these important services across the Nation. I receive frequent reports about the day-to-day activities of the Service from Vermont's U.S. marshal, Jack Rouille, who has been a model public servant and has been a linchpin of coordination for Federal and local law enforcement agencies in Vermont.

The amendment I have offered will assist the Marshals Service by amending 18 U.S.C. 709—the part of the U.S. Code that deals with misuse of names to indicate Federal agencies—to include the Marshals Service among the Federal agencies whose name and likeness are protected from imitation on items of apparel or in connection with any commercial enterprise.

At present, the name and likeness of many other Federal law enforcement agencies are protected under law. For instance, the name and likeness of the Federal Bureau of Investigation [FBI], Secret Service, and Drug Enforcement Agency [DEA] are protected under 18 U.S.C. 709. Moreover, the name and likeness of several non-law enforcement agencies are protected under law. For example, the name and likeness of the Federal Deposit Insurance Corporation, the National Credit Union, the Federal Home Loan Bank, the Overseas Private Investment Corporation, and the U.S. Mint, to name a few, are protected under 18 U.S.C. 709.

The lack of protection for the Marshals Service has generated serious security concerns. At a minimum, the public may be falsely lead to believe that the Marshals Service approves or endorses an unauthorized product. Even more problematic is the possibility that unauthorized individuals may wear apparel to look like marshals to effectuate criminal purposes or to gain undesired access to secured areas such as courtrooms or witness security facilities.

Recent cases highlight the need for this amendment:

In 1994, an individual dressed in full marshal "swat team" apparel and in possession of a loaded weapon made a series of presentations to a group of students at a local high school in Virginia.

An organization known as the United States Marshals and Peace Officers Association of America markets home security systems. Its advertisements use a replica of the Marshals Service badge, implying government endorsement of the organization and its product. The organization is not endorsed or authorized by the Marshals Service.

A Texas company offers bullet-resistant panels as an alternative home protection system. The company advertises that these bullet-proof panels are approved by the Marshals Service. This product is not officially endorsed by the Marshals Service.

While the amendment that I am introducing would protect the Marshals Service against these illegitimate uses of its name and likeness, the amendment is purposely limited in its scope. Specifically, this amendment would not prevent the use of the name or likeness in those instances where the use would not be reasonably calculated to convey the impression that either, first, the wearer of the item of apparel with the name or likeness is acting pursuant to legal authority; or, second, the use is approved, endorsed, or authorized by the Marshals Service.

Thus, for example, there was a case brought before the Patent Office Trademark Trial and Appeal Board in 1971 in which a French clothing manufacturer used the initials FBI in conjunction with the words "Fabrication Bril International" on clothing. The Trial and

Appeal Board ruled that the law did not create an absolute prohibition against the use of the initials FBI, but was applicable only in those cases in which the initials were used in a manner reasonably calculated to convey a mistaken impression that the item of clothing was approved, endorsed, or authorized by the FBI. In that case, the Board ruled, there was little chance that anyone would think that the clothing was approved, endorsed, or authorized by the FBI, hence there was no violation of the statute.

In a case of political satire, the use of the Marshals Service name or likeness would almost always be permissible. In such instances, there would be little chance that any reasonable person would think that the satirist was acting pursuant to legal authority. This amendment should not interfere with the Capitol Steps or other satirists. As the court stated in *Cliff Notes versus Bantam Doubleday Dell Pub. Group* in 1989, trademark law courts have uniformly ruled that noncommercial parodies and satires do not infringe legitimate trademarks because there is little chance of confusion as to sponsorship.

Allowing unauthorized individuals to pose as Marshals Service officials or allowing unauthorized individuals to use the name in a manner that mistakenly conveys the impression that the use is sanctioned by the Marshals Service is an affront to those who legitimately and nobly serve under its banner and wear its badge. For this reason, I am delighted that the Senate has accepted this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1628) was agreed to.

#### AMENDMENT NO. 1629

(Purpose: To combat telemarketing fraud through reasonable disclosure of certain records for telemarketing investigations)

Mr. SESSIONS. Mr. President, I send an amendment to the desk on behalf of Mr. HARKIN and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alabama [Mr. SESSIONS], for Mr. HARKIN, proposes an amendment numbered 1629.

Mr. SESSIONS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, add the following:

#### SEC. . DISCLOSURE OF CERTAIN RECORDS FOR INVESTIGATIONS OF TELE-MARKETING FRAUD.

Section 2703(c)(1)(B) of title 18, United States Code, is amended—

(1) by striking out "or" at the end of clause (ii);

(2) by striking out the period at the end of clause (iii) and inserting in lieu thereof "; or"; and

(3) by adding at the end the following: "(iv) submits a formal written request relevant to law enforcement investigation concerning telemarketing fraud for the name, address, and place of business of a subscriber or customer of such provider, which subscriber or customer is engaged in telemarketing (as such term is in section 2325 of this title)."

Mr. HARKIN. Mr. President, Every year thousands of Americans are victimized by fraudulent telemarketing promotions. And, unfortunately, these scam artists prey most often on our senior citizens. The losses every year are estimated to be in the billions of dollars. My amendment will help law enforcement to more effectively combat these abuses.

Today, it's all too easy for telemarketing rip-off artists to profit from the current system. How do these rip-offs occur? Advertisements regarding sweepstakes, contests, loans, credit reports and other promotions appear in newspapers, magazines, and other direct mail and telephone solicitations. The operators of many of these phoney promotions set up telephone boiler rooms for a few months in which a number of phones are operated to receive calls responding to their ads. They steal thousands—even millions—of dollars from innocent victims and then they simply disappear. They take the money and run—moving on to another location to start all over again.

Here's just one example. Not too long ago, 30,000 Iowans received postcards from an organization calling itself Sweepstakes International, Inc. The postcard enticed recipients to call a 900-number and they were charged \$9.95 on their phone bill.

Based on a Postal Service investigation, civil action was initiated in U.S. District Court in Iowa. As a result, the promotion was halted and \$1.7 million was frozen. This represented just one and a half month's revenue from the scam!

My amendment will protect telemarketing victims by providing law enforcement the authority to more quickly obtain the name, address, and physical location of businesses suspected of telemarketing fraud. Phone companies would have to provide law enforcement officials ONLY the name, address and physical location of a telemarketing business holding a phone number if the officials submitted a formal written request for this information relevant to a legitimate law enforcement investigation. It will make it easier for officers to identify and locate these operations. This is similar to the procedure that is already in place for post office box investigations.

Mr. President, it is necessary to crack down on serious consumer fraud. With this change, we will have many more successful efforts to shut down

these rip-off artists like several recent cases in my home state of Iowa.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1629) was agreed to.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the committee substitute be agreed to, the bill be considered read the third time, and passed, as amended, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment was agreed to.

The bill (H.R. 1847), as amended, was considered read the third time, and passed.

#### MAKING FURTHER CONTINUING APPROPRIATIONS FOR THE FISCAL YEAR 1998

Mr. SESSIONS. Mr. President, I ask unanimous consent that when the Senate receives House Joint Resolution 104 regarding continuing funding for the Government, that the joint resolution be considered read a third time and passed, the motion to reconsider be laid upon the table, and Senator ENZI be authorized to sign enrolled legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

A joint resolution (H.J. Res. 104) making further continuing appropriations for the fiscal year 1998, and for other purposes.

The PRESIDING OFFICER. The joint resolution is passed. The joint resolution (H.J. Res. 104) was read the third time and passed.

#### MEASURE READ THE FIRST TIME—H.R. 2513

Mr. SESSIONS. Mr. President, I understand that H.R. 2513 is at the desk, and I now ask for its first reading.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2513) to amend the Internal Revenue Code of 1986 to restore and modify the provision of the Taxpayer Relief Act of 1997 relating to exempting active financing income from foreign personal holding company and to provide for the nonrecognition of gain on the sale of stock in agricultural processors to certain farmers' cooperatives, and for other purposes.

Mr. SESSIONS. I now ask for its second reading, and object to my own request on behalf of the other side of the aisle.

The PRESIDING OFFICER. Objection is heard.

#### SENIOR CITIZEN HOME EQUITY PROTECTION ACT

Mr. SESSIONS. President, I ask the Chair lay before the Senate a message

from the House of Representatives on (S. 562) to amend section 255 of the National Housing Act of to prevent the funding of unnecessary or excessive costs for obtaining a home equity conversion mortgage.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

*Resolved*, That the bill from the Senate (S. 562) entitled "An Act to amend section 255 of the National Housing Act to prevent the funding of unnecessary or excessive costs for obtaining a home equity conversion mortgage," do pass with the following amendments:

Strike out all after the enacting clause and insert:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Housing Programs Extension Act of 1997".

**TITLE I—SENIOR CITIZEN HOME EQUITY PROTECTION**

**SEC. 101. SHORT TITLE.**

This title may be cited as the "Senior Citizen Home Equity Protection Act".

**SEC. 102. DISCLOSURE REQUIREMENTS; PROHIBITION OF FUNDING OF UNNECESSARY OR EXCESSIVE COSTS.**

Section 255(d) of the National Housing Act (12 U.S.C. 1715z-20(d)) is amended—

(1) in paragraph (2)—

(A) in subparagraph (B), by striking "and" at the end;

(B) by redesignating subparagraph (C) as subparagraph (D); and

(C) by inserting after subparagraph (B) the following:

"(C) has received full disclosure of all costs to the mortgagor for obtaining the mortgage, including any costs of estate planning, financial advice, or other related services; and";

(2) in paragraph (9)(F), by striking "and";

(3) in paragraph (10), by striking the period at the end and inserting "; and"; and

(4) by adding at the end the following:

"(11) have been made with such restrictions as the Secretary determines to be appropriate to ensure that the mortgagor does not fund any unnecessary or excessive costs for obtaining the mortgage, including any costs of estate planning, financial advice, or other related services."

**SEC. 103. IMPLEMENTATION.**

(a) NOTICE.—The Secretary of Housing and Urban Development shall, by interim notice, implement the amendments made by section 102 in an expeditious manner, as determined by the Secretary. Such notice shall not be effective after the date of the effectiveness of the final regulations issued under subsection (b).

(b) REGULATIONS.—The Secretary shall, not later than the expiration of the 90-day period beginning on the date of the enactment of this Act, issue final regulations to implement the amendments made by section 102. Such regulations shall be issued only after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2) and (b)(B) of such section).

**TITLE II—TEMPORARY EXTENSION OF PUBLIC HOUSING AND SECTION 8 RENTAL ASSISTANCE PROVISIONS**

**SEC. 201. PUBLIC HOUSING CEILING RENTS AND INCOME ADJUSTMENTS AND PREFERENCES FOR ASSISTED HOUSING.**

Section 402(f) of The Balanced Budget Downpayment Act, I (42 U.S.C. 1437aa note) is amended by striking "and 1997" and inserting ", 1997, and 1998".

**SEC. 202. PUBLIC HOUSING DEMOLITION AND DISPOSITION.**

Section 1002(d) of the Emergency Supplemental Appropriations for Additional Disaster Assistance, for Anti-terrorism Initiatives, for Assistance in the Recovery from the Tragedy that Occurred at Oklahoma City, and Rescissions Act, 1995 (42 U.S.C. 1437c note) is amended by striking "September 30, 1997" and inserting "September 30, 1998".

**SEC. 203. PUBLIC HOUSING FUNDING FLEXIBILITY AND MIXED-FINANCE DEVELOPMENTS.**

Section 201(a)(2) of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996 (as contained in section 101(e) of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Public Law 104-134)) (42 U.S.C. 1437f note) is amended by striking "fiscal year 1997" and inserting "fiscal year 1998".

**SEC. 204. MINIMUM RENTS.**

Section 402(a) of The Balanced Budget Downpayment Act, I (Public Law 104-99; 110 Stat. 40) is amended in the matter preceding paragraph (1) by striking "fiscal year 1997" and inserting "fiscal years 1997 and 1998".

**SEC. 205. PROVISIONS RELATING TO SECTION 8 RENTAL ASSISTANCE PROGRAM.**

(a) TAKE-ONE-TAKE-ALL, NOTICE REQUIREMENTS, AND ENDLESS LEASE PROVISIONS.—Section 203(d) of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996 (as contained in section 101(e) of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Public Law 104-134)) (42 U.S.C. 1437f note) is amended by striking "and 1997" and inserting ", 1997, and 1998".

(b) FAIR MARKET RENTALS.—The first sentence of section 403(a) of The Balanced Budget Downpayment Act, I (Public Law 104-99; 110 Stat. 43) is amended by striking "fiscal year 1997" and inserting "fiscal years 1997 and 1998".

**TITLE III—REAUTHORIZATION OF FEDERALLY ASSISTED MULTIFAMILY RENTAL HOUSING PROVISIONS**

**SEC. 301. MULTIFAMILY HOUSING FINANCE PILOT PROGRAMS.**

Section 542 of the Housing and Community Development Act of 1992 (12 U.S.C. 1707 note) is amended—

(1) in subsection (b)(5), by inserting before the period at the end of the first sentence the following: ", and not more than an additional 15,000 units during fiscal year 1998"; and

(2) in the first sentence of subsection (c)(4)—

(A) by striking "and" and inserting a comma; and

(B) by inserting before the period at the end of the following: ", and not more than an additional 15,000 units during fiscal year 1998".

**SEC. 302. HUD DISPOSITION OF MULTIFAMILY HOUSING.**

Section 204 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997 (12 U.S.C. 1715z-11a) is amended by inserting after "owned by the Secretary" the following: ", including the provision of grants and loans from the General Insurance Fund for the necessary costs of rehabilitation or demolition,".

**SEC. 303. MULTIFAMILY MORTGAGE AUCTIONS.**

Section 221(g)(4)(C) of the National Housing Act (12 U.S.C. 1715i(g)(4)(C)) is amended—

(1) in the first sentence of clause (viii), by striking "September 30, 1996" and inserting "December 31, 2005"; and

(2) by adding at the end the following new clauses:

"(ix) Subject to the limitation in clause (x), the costs of any multifamily auctions under this

subparagraph occurring during any fiscal year shall be paid from amounts in the General Insurance Fund established under section 519.

"(x) This authority of the Secretary to conduct multifamily auctions under this subparagraph shall be effective for any fiscal year only to the extent or in such amounts that amounts in the General Insurance Fund are or have been approved in appropriation Acts for costs of such auctions occurring during such fiscal year."

**SEC. 304. INTEREST REDUCTION PAYMENTS IN CONNECTION WITH SALES OF SECTION 236 MORTGAGES HELD BY HUD.**

Section 236 of the National Housing Act (12 U.S.C. 1715z-1) is amended—

(1) in the first sentence of subsection (b), by inserting before the colon at the end of the first proviso the following: "and when the mortgage is assigned or otherwise transferred to a subsequent holder or purchaser (including any successors and assignees)"; and

(2) in subsection (c)—

(A) by inserting "(1)" after the subsection designation; and

(B) by adding at the end the following new paragraphs:

"(2)(A) The Secretary may continue to make interest reduction payments to the holder or purchaser (including any successors and assignees) of a mortgage formerly held by the Secretary upon such terms and conditions as the Secretary may determine. In exercising the authority under the preceding sentence, upon cancellation of any contract for such interest reduction payments as a result of foreclosure or transfer of a deed in lieu of foreclosure, any amounts of budget authority which would have been available for such contract, absent cancellation, shall remain available for the project for the balance of the term of the original mortgage upon such terms and conditions as the Secretary may determine.

"(B) The Secretary may exercise the authority to make payments under this paragraph (i) only with respect to mortgage loans under this section which, at the time of the Secretary's assignment or other transfer, have a total amount of unpaid principal obligation of not more than \$92,000,000, and (ii) only to the extent or in such amounts as are or have been provided in advance in appropriation Acts.

"(3) Notwithstanding subsection (i)(2) or any other provision of law, in connection with the sale of mortgages held by the Secretary, the Secretary may establish appropriate terms and conditions, based on section 42 of the Internal Revenue Code of 1986 or another appropriate standard, for determining eligibility for occupancy in the project and rental charges."

**SEC. 305. ASSIGNMENT OF REGULATORY AGREEMENTS IN CONNECTION WITH SALES OF MORTGAGES HELD BY HUD.**

Section 203(k) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1701z-11(k)) is amended by adding at the end the following new paragraph:

"(7) ASSIGNMENT OF REGULATORY AGREEMENT IN CONNECTION WITH SALE OF MORTGAGES.—Notwithstanding any other provision of law, and upon such terms and conditions as the Secretary may prescribe, the Secretary may, in connection with the sale of mortgages held by the Secretary, provide for the assumption of all rights and responsibilities under the regulatory agreement executed by or for the benefit of the Secretary. Such assumption shall further provide for the regulatory agreement to be so assumed by any successor or assignee of the initial assuming entity. Such regulatory agreement shall continue to be binding upon the mortgagor and its successors and assignees."

**TITLE IV—REAUTHORIZATION OF RURAL HOUSING PROGRAMS**

**SEC. 401. HOUSING IN UNDERSERVED AREAS PROGRAM.**

The first sentence of section 509(f)(4)(A) of the Housing Act of 1949 (42 U.S.C. 1479(f)(4)(A)) is amended by striking "fiscal year 1997" and inserting "fiscal years 1997, 1998, and 1999".

**SEC. 402. HOUSING AND RELATED FACILITIES FOR ELDERLY PERSONS AND FAMILIES AND OTHER LOW-INCOME PERSONS AND FAMILIES.**

(a) **AUTHORITY TO MAKE LOANS.**—Section 515(b)(4) of the Housing Act of 1949 (42 U.S.C. 1485(b)(4)) is amended by striking "September 30, 1997" and inserting "September 30, 1999".

(b) **SET-ASIDE FOR NONPROFIT ENTITIES.**—The first sentence of section 515(w)(1) of the Housing Act of 1949 (42 U.S.C. 1485(w)(1)) is amended by striking "fiscal year 1997" and inserting "fiscal years 1997, 1998, and 1999".

**SEC. 403. LOAN GUARANTEES FOR MULTIFAMILY RENTAL HOUSING IN RURAL AREAS.**

Section 538 of the Housing Act of 1949 (42 U.S.C. 1490p-2) is amended—

(1) in subsection (q), by striking paragraph (2) and inserting the following:

"(2) **ANNUAL LIMITATION ON AMOUNT OF LOAN GUARANTEE.**—In each fiscal year, the Secretary may enter into commitments to guarantee loans under this section only to the extent that the costs of the guarantees entered into in such fiscal year do not exceed such amount as may be provided in appropriation Acts for such fiscal year.";

(2) by striking subsection (t) and inserting the following:

"(t) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated for each of fiscal years 1998 and 1999 for costs (as such term is defined in section 502 of the Congressional Budget Act of 1974) of loan guarantees made under this section such sums as may be necessary for such fiscal year."; and

(3) in subsection (u), by striking "1996" and inserting "1999".

**TITLE V—REAUTHORIZATION OF NATIONAL FLOOD INSURANCE PROGRAM**

**SEC. 501. PROGRAM EXPIRATION.**

Section 1319 of the National Flood Insurance Act of 1968 (42 U.S.C. 4026) is amended by striking "September 30, 1997" and inserting "September 30, 1999".

**SEC. 502. BORROWING AUTHORITY.**

Section 1309(a)(2) of the National Flood Insurance Act of 1968 (42 U.S.C. 4016(a)(2)) is amended by striking "September 30, 1997" and inserting "September 30, 1999".

**SEC. 503. EMERGENCY IMPLEMENTATION OF PROGRAM.**

Section 1336(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4056(a)) is amended by striking "September 30, 1996" and inserting "September 30, 1999".

**SEC. 504. AUTHORIZATION OF APPROPRIATIONS FOR STUDIES.**

Subsection (c) of section 1376 of the National Flood Insurance Act of 1968 (42 U.S.C. 4127(c)) is amended to read as follows:

"(c) For studies under this title, there are authorized to be appropriated such sums as may be necessary for each of fiscal years 1998 and 1999, which shall remain available until expended."

Amend the title so as to read: "An Act to provide for the temporary extension of certain programs relating to public housing, to reauthorize certain programs relating to housing assistance, and to amend section 255 of the National Housing Act to prevent the funding of unnecessary or excessive costs for obtaining a home equity conversion mortgage, and for other purposes."

AMENDMENT NO. 1630

Mr. SESSIONS. Mr. President, I move that the Senate concur in the

amendments of the House with a further amendment which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows: The Senator from Alabama [Mr. SESSIONS], for Mr. D'AMATO, proposes an amendment numbered 1630.

Mr. SESSIONS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. D'AMATO. Mr. President, I rise to support immediate passage of the "Senior Citizen Home Equity Protection Act" (S. 562). This legislation contains essential provisions which are urgently required to protect our senior citizens from further exploitation by fraudulent operators who are manipulating the Department of Housing and Urban Development's (HUD) home equity conversion mortgage program. The bill also contains a number of housing and flood insurance program reauthorizations and technical corrections which are needed to ensure the effective and efficient continuation of existing programs.

The Senior Citizen Home Equity Protection Act, which I introduced on April 10, 1997, was originally passed by the Senate on April 25, 1997. It seeks to prevent unscrupulous middlemen, posing as "estate planners", from taking advantage of seniors by charging unnecessary and excessive fees to assist them in obtaining a home equity conversion mortgage. These predators have charged elderly homeowners fees ranging from 6 to 12 percent of the loan amount. Hundreds of very low-income seniors have been manipulated into paying several thousand dollars in return for ministerial and often meaningless services. HUD provides information on reverse mortgages at no charge.

These abuses must be halted at once. This bill provides two important safeguards to stop such exploitation. First, it provides a requirement that the mortgagor has received a full disclosure of all costs of obtaining the mortgage, including any costs of estate planning, financial advice or other related services. Second, it clarifies that the HUD Secretary has authority to impose restrictions to ensure that the mortgagor is not charged any unnecessary or excessive costs for obtaining a reverse mortgage.

This legislation also provides temporary extensions of certain public and assisted housing policy reforms which have been previously extended in VA-HUD appropriations legislation since Fiscal Year 1996. An owner's right to prepay a Federal Housing Administration-insured multifamily mortgage, subject to certain conditions, is clarified.

The bill reauthorizes several federally assisted multifamily rental housing programs under the jurisdiction of HUD and the Rural Housing Service of the Department of Agriculture. Such extensions will assure that much needed rental programs for low-income families continue in an uninterrupted fashion. The National Flood Insurance Program, which is vital for our homeowners residing in floodplain and coastal areas, is also reauthorized.

Last fall, Congress passed the Native American Housing Assistance and Self-Determination Act of 1996. The legislation presented before you today makes technical and conforming changes to ensure the effective implementation of that Act.

I would like to commend Senator Connie MACK, Chairman of the Banking Committee's Subcommittee on Housing Opportunity and Community Development, for his leadership in the development of this legislation. I applaud Senator MACK, Ranking Minority Member Paul SARBANES and Subcommittee Ranking Minority Member John KERRY for their fine stewardship of housing and community development programs under the Banking Committee's jurisdiction.

Mr. President, S. 562 should be law by now. By delaying action on the bill for 5 months, the House of Representatives has left our senior citizens unprotected and vulnerable to predatory practices—and for no reason other than to engage in parliamentary gamesmanship. Mr. President, I cannot condone this delay. I urge the House of Representatives to pass this bill, which now contains additional provisions the House has insisted upon. There is no opposition to this bill to my knowledge.

I respectfully urge the Senate and the House of Representatives to grant passage of this bill before adjournment. It is imperative that we ensure that our nation's most vulnerable homeowners are no longer victimized. Without final passage of this bill, our very low-income elderly homeowners may continue to be preyed upon. I ask for immediate support of this vital legislation.

The PRESIDING OFFICER. The question is on agreeing to the motion. The motion was agreed to.

**50 STATES COMMEMORATIVE COIN PROGRAM ACT**

Mr. SESSIONS. Mr. President, I ask unanimous consent the Senate proceed to the consideration of calendar No. 244, S. 1128.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows: A bill (S. 1228) to provide a 10-year circulating commemorative coin program to commemorate each of the 50 States, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Banking, Housing, and Urban Affairs, with an amendment to insert the part printed in *italic*:

S. 1228

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "50 States Commemorative Coin Program Act".

**SEC. 2. FINDINGS.**

The Congress finds that—

(1) it is appropriate and timely—  
(A) to honor the unique Federal republic of 50 States that comprise the United States; and

(B) to promote the diffusion of knowledge among the youth of the United States about the individual States, their history and geography, and the rich diversity of the national heritage;

(2) the circulating coinage of the United States has not been modernized during the 25-year period preceding the date of enactment of this Act;

(3) a circulating commemorative 25-cent coin program could produce earnings of \$110,000,000 from the sale of silver proof coins and sets over the 10-year period of issuance, and would produce indirect earnings of an estimated \$2,600,000,000 to \$5,100,000,000 to the United States Treasury, money that will replace borrowing to fund the national debt to at least that extent; and

(4) it is appropriate to launch a commemorative circulating coin program that encourages young people and their families to collect memorable tokens of all of the States for the face value of the coins.

**SEC. 3. ISSUANCE OF REDESIGNED QUARTER DOLLARS OVER 10-YEAR PERIOD COMMEMORATING EACH OF THE 50 STATES.**

Section 5112 of title 31, United States Code, is amended by inserting after subsection (k) the following new subsection:

"(1) REDESIGN AND ISSUANCE OF QUARTER DOLLAR IN COMMEMORATION OF EACH OF THE 50 STATES.—

"(1) REDESIGN BEGINNING IN 1999.—  
(A) IN GENERAL.—Notwithstanding the fourth sentence of subsection (d)(1) and subsection (d)(2), quarter dollar coins issued during the 10-year period beginning in 1999, shall have designs on the reverse side selected in accordance with this subsection which are emblematic of the 50 States.

"(B) TRANSITION PROVISION.—Notwithstanding subparagraph (A), the Secretary may continue to mint and issue quarter dollars in 1999 which bear the design in effect before the redesign required under this subsection and an inscription of the year '1998' as required to ensure a smooth transition into the 10-year program under this subsection.

"(2) SINGLE STATE DESIGNS.—The design on the reverse side of each quarter dollar issued during the 10-year period referred to in paragraph (1) shall be emblematic of 1 of the 50 States.

"(3) ISSUANCE OF COINS COMMEMORATING 5 STATES DURING EACH OF THE 10 YEARS.—

"(A) IN GENERAL.—The designs for the quarter dollar coins issued during each year of the 10-year period referred to in paragraph (1) shall be emblematic of 5 States selected in the order in which such States ratified the Constitution of the United States or were admitted into the Union, as the case may be.

"(B) NUMBER OF EACH OF 5 COIN DESIGNS IN EACH YEAR.—Of the quarter dollar coins issued during each year of the 10-year period referred to in paragraph (1), the Secretary of the Treasury shall prescribe, on the basis of such factors as the Secretary determines to be appropriate, the number of quarter dollars which shall be issued with each of the 5 designs selected for such year.

"(4) SELECTION OF DESIGN.—  
(A) IN GENERAL.—Each of the 50 designs required under this subsection for quarter dollars shall be—

"(i) selected by the Secretary after consultation with—

"(I) the Governor of the State being commemorated, or such other State officials or group as the State may designate for such purpose; and

"(II) the Commission of Fine Arts; and  
(ii) reviewed by the Citizens Commemorative Coin Advisory Committee.

"(B) SELECTION AND APPROVAL PROCESS.—Designs for quarter dollars may be submitted in accordance with the design selection and approval process developed by the Secretary in the sole discretion of the Secretary.

"(C) PARTICIPATION.—The Secretary may include participation by State officials, artists from the States, engravers of the United States Mint, and members of the general public.

"(D) STANDARDS.—Because it is important that the Nation's coinage and currency bear dignified designs of which the citizens of the United States can be proud, the Secretary shall not select any frivolous or inappropriate design for any quarter dollar minted under this subsection.

"(E) PROHIBITION ON CERTAIN REPRESENTATIONS.—No head and shoulders portrait or bust of any person, living or dead, and no portrait of a living person may be included in the design of any quarter dollar under this subsection.

"(5) TREATMENT AS NUMISMATIC ITEMS.—For purposes of sections 5134 and 5136, all coins minted under this subsection shall be considered to be numismatic items.

"(6) ISSUANCE.—  
(A) QUALITY OF COINS.—The Secretary may mint and issue such number of quarter dollars of each design selected under paragraph (4) in uncirculated and proof qualities as the Secretary determines to be appropriate.

"(B) SILVER COINS.—Notwithstanding subsection (b), the Secretary may mint and issue such number of quarter dollars of each design selected under paragraph (4) as the Secretary determines to be appropriate, with a content of 90 percent silver and 10 percent copper.

"(C) SOURCES OF BULLION.—The Secretary shall obtain silver for minting coins under subparagraph (B) from available resources, including stockpiles established under the Strategic and Critical Materials Stock Piling Act.

"(7) APPLICATION IN EVENT OF THE ADMISSION OF ADDITIONAL STATES.—If any additional State is admitted into the Union before the end of the 10-year period referred to in paragraph (1), the Secretary of the Treasury may issue quarter dollar coins, in accordance with this subsection, with a design which is emblematic of such State during any 1 year of such 10-year period, in addition to the quarter dollar coins issued during such year in accordance with paragraph (3)(A)."

AMENDMENT NO. 1631

(Purpose: To make a series of amendments)

Mr. SESSIONS. Mr. President, Senators D'AMATO and SARBANES have an amendment at the desk, and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:  
The Senator from Alabama (Mr. SESSIONS), for Mr. D'AMATO for himself and Mr. SARBANES, proposes an amendment numbered 1631.

Mr. SESSIONS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:  
On page 14, strike lines 4 through 10.  
At the appropriate place, insert the following:

**SEC. RULE OF CONSTRUCTION.**

Nothing in this Act or the amendments made by this Act shall be construed to evidence any intention to eliminate or to limit the printing or circulation of United States currency in the \$1 denomination.

Mr. BOND. With respect to the Manager's Amendment, I would like to ask the Senator to clarify his intent. As I understand the amendment regarding the dollar coin language, it is your intent, as chairman of the committee, and it is the intent of the Banking Committee that S. 1228, as amended, will not in any way restrict the continued printing and circulation of the dollar bill.

Mr. D'AMATO. That is correct. Moreover, when S. 1228, as amended, is adopted, this will similarly indicate the intent of Congress that the dollar bill shall continue to be printed and shall remain in circulation.

Mr. THOMPSON. There is a provision in the amended version of S. 1228 that I feel needs clarification. In setting the design parameters for the new dollar coin, the legislation makes clear that the coin should be golden in color, have a distinctive edge, and include other features to ensure that the coin is not confused with any existing coins. The last design parameter within the legislation states that the coin should have anticounterfeiting properties of coinage in circulation at the time of the bill's enactment. I ask the Senator, is this provision intended to require the Mint to use clad coin technology in the new dollar coin?

Mr. GRAMS. No, that provision is intended to be descriptive. The Mint is instructed to utilize anticounterfeiting technology.

Mr. COATS. I thank Senator GRAMS for his answer. Is this provision intended to limit the Mint's choice of technology in the development of the dollar coin? For instance, could the Mint choose a plated coin rather than a clad coin?

Mr. GRAMS. This provision is not intended to limit the U.S. Mint's use of technology or approach to design. We intend for the Mint to develop a dollar coin that meets the needs of the public and is not subject to counterfeiting. If

the Mint believes that a plated coin will offer the best approach to meeting its needs, then a plated coin could be developed.

Mr. FRIST. Thus, it is not the Committee's intention to limit the Mint's flexibility, to require a certain coin technology or to limit competition among potential suppliers of coin blanks?

Mr. GRAMS. The Senator from Tennessee has stated the situation exactly. The Committee is directing the Mint to develop the best possible dollar coin. We have not sought to limit the Mint or require a clad coin.

Mr. FRIST. I thank the Senator for his answer.

Ms. MOSELEY-BRAUN. Mr. President, I am very pleased that the one dollar coin bill is a part of this legislation. I have long been a supporter of legislation authorizing the production of a new dollar coin, and was an original cosponsor of the dollar coin bill, which became part of this coin legislation.

Changing the currency or the coinage of the United States always involves an element of controversy. After all, virtually everyone uses money—every day. Americans are familiar with our currency and coinage, and they understandably and justifiably have opinions on whether to change it. There are a number of reasons, however, why this change is necessary.

Unfortunately, today's dollar is not worth what it once was. In fact, the dollar's value has declined by over a factor of four in just the last 35 years. When I was a teenager, you could get a hamburger, fries and a small coke at McDonald's for 42 cents. Now the cost is over \$2. You could get a Chicago Tribune and a Chicago Sun-Times for 10 cents. Now the Tribune costs 50 cents and the Sun-Times 35 cents. I could go on and on, but the point is simple—inflation has made the dollar worth less than a quarter was when John F. Kennedy was President of the United States.

Perhaps the most telling illustration of the erosion of value of our currency and coinage is the fact that so many stores now have a "penny" dish in front of their cash registers—inviting their customers to take a penny or two or leave a penny or two to make their transactions come out to the nearest nickel. It is that kind of change in the value of money that led Great Britain to replace the one-pound note with a one-pound coin. And it is that fact that led Canada to replace its one-dollar bill with a one-dollar coin.

These foreign countries, and many others, understood that they needed to update their currency and coinage to fit present-day economic realities—and that need is no less real in this country. That is why I cosponsored this legislation, because I believe that updating our money to reflect current eco-

nomie realities is long overdue. I think we should act carefully. I think the coin must be designed carefully. We need to learn from past mistakes, but we should not let those past mistakes keep us from taking the action that is necessary now.

Secondly, in many instances, a dollar coin would be more practical than a paper note. I'm sure we've all had a run-in with a balky dollar bill changer, one that simply won't take our dollar for a subway ride or a soft drink, no matter how many times we straighten the dollar.

Finally, the use of a dollar coin would save money. For example, the Chicago Transit Authority would save over \$2 million annually, because coins are easier and less expensive to process than bills. Many manufacturers that serve the vending industry and coin-operated industry would also save money because it is less expensive to retrofit machines to accept dollar coins, than to add a dollar bill changer to machines.

However, the dollar coin we have currently, known as the "Susan B. Anthony," lacks sufficient public acceptance to make it effective. This coin too closely resembles the quarter in appearance and texture. Moreover, according to the Mint, the supply of these coins is decreasing, and more would have to be minted within the next few years if the coin were not replaced. This legislation calls for the replacement of the Susan B. Anthony coin with a coin that is golden in color and smooth edged so that it is more easily differentiated from the quarter.

The Susan B. Anthony coin is, unfortunately, the only American currency in circulation that honors the achievements of a woman. Since the Susan B. Anthony coin will no longer be widely circulated, it is only appropriate that the design of this new coin depict a woman or women of historical significance. To that end, I believe that the new coin should depict the images of Sojourner Truth, Elizabeth Cady Stanton, Lucretia Mott and Susan B. Anthony. These four women were staunch abolitionists, and fought for equal rights for women. It is largely through their efforts that women have opportunities for higher education, the right to control their own property and children, the right to hold public office and the right to vote.

Three of these women, Elizabeth Cady Stanton, Lucretia Mott, and Susan B. Anthony, have been honored with a statue in the Capitol. This statue, however, was carved in 1921, and failed to include Sojourner Truth, the great abolitionist, feminist and preacher. This coin provides an excellent opportunity to recognize the contributions of Sojourner Truth, along with her fellow women's rights advocates.

Sojourner Truth was born into slavery in 1797 in New York State. Freed in

1827 under the New York State Emancipation Act, she spent the next 53 years preaching and lecturing about God, abolition and women's rights.

Sojourner Truth was an advocate of women's rights. She consistently supported equality among all people. In 1851, Sojourner Truth spoke at a Women's Rights Convention in Akron, Ohio. Despite widely voiced concerns by many of the white women in attendance that they did not want an African American speaking, potentially confusing and tarnishing their cause, Sojourner Truth rose to respond to male preachers who were denouncing women's rights based on the inherent frailty of women:

I want to say a few words about this matter. I am a woman's rights. I have as much muscle as any man and can do as much work as any man. I have plowed and reaped and husked and chopped and mowed, and can any man do more than that? I have heard much about the sexes being equal; I can carry as much as any man, and can eat as much, too, if I can get it. I am as strong as any man that is now . . . Why, children, if you have woman's rights, give it to her and you will feel better. You will have your own rights, and they won't be so much trouble . . .

She inspired the Convention and women's rights advocates as she did all of her audiences.

Sojourner Truth dedicated her life to achieving equality. She considered herself to be on a sojourn to tell the truth, a sojourn directed by God. It would be a fitting tribute to Sojourner Truth and to the truth which she preached, to honor her by depicting her image on the dollar coin, along with her fellow women's rights crusaders, Elizabeth Cady Stanton, Lucretia Mott, and Susan B. Anthony.

Along with a number of my colleagues on the Senate Banking Committee, I filed additional views with the committee report of this legislation, indicating our support for the four suffragettes. We also intend to make our views known to Secretary Rubin, who has the authority to select the design of the coin. I urge my colleagues to support this effort to ensure that the mistake made in 1921 is rectified and that Sojourner Truth can take her rightful place with the other suffragettes who fought for equal rights for all Americans.

#### AMENDMENT NO. 1632

(Purpose: To make an amendment relating to coinage.)

Mr. SESSIONS. Mr. President, I understand that Senator COATS has an amendment at the desk, and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alabama Mr. SESSIONS, for Mr. COATS, proposes an amendment numbered 1632.

On Page 8, line 11, strike "clad".

Mr. SESSIONS. Mr. President, I ask unanimous consent that the amendments be agreed to, the committee

amendment be agreed to, the bill be considered read a third time and passed, as amended, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments (Nos. 1631 and 1632) were agreed to.

The committee amendment was agreed to.

The bill (S. 1228), as amended, was passed, as follows:

S. 1228

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "50 States Commemorative Coin Program Act".

#### SEC. 2. FINDINGS.

The Congress finds that—

(1) it is appropriate and timely—

(A) to honor the unique Federal republic of 50 States that comprise the United States; and

(B) to promote the diffusion of knowledge among the youth of the United States about the individual States, their history and geography, and the rich diversity of the national heritage;

(2) the circulating coinage of the United States has not been modernized during the 25-year period preceding the date of enactment of this Act;

(3) a circulating commemorative 25-cent coin program could produce earnings of \$110,000,000 from the sale of silver proof coins and sets over the 10-year period of issuance, and would produce indirect earnings of an estimated \$2,600,000,000 to \$5,100,000,000 to the United States Treasury, money that will replace borrowing to fund the national debt to at least that extent; and

(4) it is appropriate to launch a commemorative circulating coin program that encourages young people and their families to collect memorable tokens of all of the States for the face value of the coins.

#### SEC. 3. ISSUANCE OF REDESIGNED QUARTER DOLLARS OVER 10-YEAR PERIOD COMMEMORATING EACH OF THE 50 STATES.

Section 5112 of title 31, United States Code, is amended by inserting after subsection (k) the following new subsection:

"(l) REDESIGN AND ISSUANCE OF QUARTER DOLLAR IN COMMEMORATION OF EACH OF THE 50 STATES.—

"(1) REDESIGN BEGINNING IN 1999.—

"(A) IN GENERAL.—Notwithstanding the fourth sentence of subsection (d)(1) and subsection (d)(2), quarter dollar coins issued during the 10-year period beginning in 1999, shall have designs on the reverse side selected in accordance with this subsection which are emblematic of the 50 States.

"(B) TRANSITION PROVISION.—Notwithstanding subparagraph (A), the Secretary may continue to mint and issue quarter dollars in 1999 which bear the design in effect before the redesign required under this subsection and an inscription of the year '1998' as required to ensure a smooth transition into the 10-year program under this subsection.

"(2) SINGLE STATE DESIGNS.—The design on the reverse side of each quarter dollar issued during the 10-year period referred to in paragraph (1) shall be emblematic of 1 of the 50 States.

"(3) ISSUANCE OF COINS COMMEMORATING 5 STATES DURING EACH OF THE 10 YEARS.—

"(A) IN GENERAL.—The designs for the quarter dollar coins issued during each year of the 10-year period referred to in paragraph (1) shall be emblematic of 5 States selected in the order in which such States ratified the Constitution of the United States or were admitted into the Union, as the case may be.

"(B) NUMBER OF EACH OF 5 COIN DESIGNS IN EACH YEAR.—Of the quarter dollar coins issued during each year of the 10-year period referred to in paragraph (1), the Secretary of the Treasury shall prescribe, on the basis of such factors as the Secretary determines to be appropriate, the number of quarter dollars which shall be issued with each of the 5 designs selected for such year.

"(4) SELECTION OF DESIGN.—

"(A) IN GENERAL.—Each of the 50 designs required under this subsection for quarter dollars shall be—

"(i) selected by the Secretary after consultation with—

"(I) the Governor of the State being commemorated, or such other State officials or group as the State may designate for such purpose; and

"(II) the Commission of Fine Arts; and

"(ii) reviewed by the Citizens Commemorative Coin Advisory Committee.

"(B) SELECTION AND APPROVAL PROCESS.—Designs for quarter dollars may be submitted in accordance with the design selection and approval process developed by the Secretary in the sole discretion of the Secretary.

"(C) PARTICIPATION.—The Secretary may include participation by State officials, artists from the States, engravers of the United States Mint, and members of the general public.

"(D) STANDARDS.—Because it is important that the Nation's coinage and currency bear dignified designs of which the citizens of the United States can be proud, the Secretary shall not select any frivolous or inappropriate design for any quarter dollar minted under this subsection.

"(E) PROHIBITION ON CERTAIN REPRESENTATIONS.—No head and shoulders portrait or bust of any person, living or dead, and no portrait of a living person may be included in the design of any quarter dollar under this subsection.

"(5) TREATMENT AS NUMISMATIC ITEMS.—For purposes of sections 5134 and 5136, all coins minted under this subsection shall be considered to be numismatic items.

"(6) ISSUANCE.—

"(A) QUALITY OF COINS.—The Secretary may mint and issue such number of quarter dollars of each design selected under paragraph (4) in uncirculated and proof qualities as the Secretary determines to be appropriate.

"(B) SILVER COINS.—Notwithstanding subsection (b), the Secretary may mint and issue such number of quarter dollars of each design selected under paragraph (4) as the Secretary determines to be appropriate, with a content of 90 percent silver and 10 percent copper.

"(C) SOURCES OF BULLION.—The Secretary shall obtain silver for minting coins under subparagraph (B) from available resources, including stockpiles established under the Strategic and Critical Materials Stock Piling Act.

"(7) APPLICATION IN EVENT OF THE ADMISSION OF ADDITIONAL STATES.—If any additional State is admitted into the Union before the end of the 10-year period referred to in paragraph (1), the Secretary of the Treasury may issue quarter dollar coins, in ac-

cordance with this subsection, with a design which is emblematic of such State during any 1 year of such 10-year period, in addition to the quarter dollar coins issued during such year in accordance with paragraph (3)(A)."

#### SEC. 4. UNITED STATES DOLLAR COINS.

(a) SHORT TITLE.—This section may be cited as the "United States \$1 Coin Act of 1997".

(b) WEIGHT.—Section 5112(a)(1) of title 31, United States Code, is amended by striking "and weighs 8.1 grams".

(c) COLOR AND CONTENT.—Section 5112(b) of title 31, United States Code, is amended—

(1) in the first sentence, by striking "dollar"; and

(2) by inserting after the fourth sentence the following: "The dollar coin shall be golden in color, have a distinctive edge, have tactile and visual features that make the denomination of the coin readily discernible, be minted and fabricated in the United States, and have similar metallic, anti-counterfeiting properties as United States clad coinage in circulation on the date of enactment of the United States \$1 Coin Act of 1997."

(d) DESIGN.—Section 5112(d)(1) of title 31, United States Code, is amended by striking the fifth and sixth sentences and inserting the following: "The Secretary of the Treasury, in consultation with the Congress, shall select appropriate designs for the obverse and reverse sides of the dollar coin."

(e) PRODUCTION OF NEW DOLLAR COINS.—

(1) IN GENERAL.—Upon the depletion of the Government's supply (as of the date of enactment of this Act) of \$1 coins bearing the likeness of Susan B. Anthony, the Secretary of the Treasury shall place into circulation \$1 coins that comply with the requirements of subsections (b) and (d)(1) of section 5112 of title 31, United States Code, as amended by this section.

(2) AUTHORITY OF SECRETARY TO CONTINUE PRODUCTION.—If the supply of \$1 coins bearing the likeness of Susan B. Anthony is depleted before production has begun of \$1 coins which bear a design which complies with the requirements of subsections (b) and (d)(1) of section 5112 of title 31, United States Code, as amended by this section, the Secretary of the Treasury may continue to mint and issue \$1 coins bearing the likeness of Susan B. Anthony in accordance with that section 5112 (as in effect on the day before the date of enactment of this Act) until such time as production begins.

(3) NUMISMATIC SETS.—The Secretary may include such \$1 coins in any numismatic set produced by the United States Mint before the date on which the \$1 coins authorized by this section are placed in circulation.

(f) MARKETING PROGRAM.—

(1) IN GENERAL.—Before placing into circulation \$1 coins authorized under this section, the Secretary of the Treasury shall adopt a program to promote the use of such coins by commercial enterprises, mass transit authorities, and Federal, State, and local government agencies.

(2) STUDY REQUIRED.—The Secretary of the Treasury shall conduct a study on the progress of the marketing program adopted in accordance with paragraph (1).

(3) REPORT.—Not later than March 31, 2001, the Secretary of the Treasury shall submit a report to the Congress on the results of the study conducted pursuant to paragraph (2).

#### SEC. 5. FIRST FLIGHT COMMEMORATIVE COINS.

(a) COIN SPECIFICATIONS.—

(1) DENOMINATIONS.—The Secretary of the Treasury (hereafter in this section referred

to as the "Secretary") shall mint and issue the following coins:

(A) \$10 GOLD COINS.—Not more than 100,000 \$10 coins, each of which shall—

- (i) weigh 16.718 grams;
- (ii) have a diameter of 1.06 inches; and
- (iii) contain 90 percent gold and 10 percent alloy.

(B) \$1 SILVER COINS.—Not more than 500,000 \$1 coins, each of which shall—

- (i) weigh 26.73 grams;
- (ii) have a diameter of 1.500 inches; and
- (iii) contain 90 percent silver and 10 percent copper.

(C) HALF DOLLAR CLAD COINS.—Not more than 750,000 half dollar coins each of which shall—

- (i) weigh 11.34 grams;
- (ii) have a diameter of 1.205 inches; and
- (iii) be minted to the specifications for half dollar coins contained in section 5112(b) of title 31, United States Code.

(b) LEGAL TENDER.—The coins minted under this section shall be legal tender, as provided in section 5103 of title 31, United States Code.

(c) SOURCES OF BULLION.—The Secretary shall obtain gold and silver for minting coins under this section pursuant to the authority of the Secretary under other provisions of law, including authority relating to the use of silver stockpiles established under the Strategic and Critical Materials Stockpiling Act, as applicable.

(d) DESIGN OF COINS.—

(1) DESIGN REQUIREMENTS.—

(A) IN GENERAL.—The design of the coins minted under this section shall be emblematic of the first flight of Orville and Wilbur Wright in Kitty Hawk, North Carolina, on December 17, 1903.

(B) DESIGNATION AND INSCRIPTIONS.—On each coin minted under this section there shall be—

- (i) a designation of the value of the coin;
- (ii) an inscription of the year "2003"; and
- (iii) inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(2) SELECTION.—The design for the coins minted under this section shall be—

(A) selected by the Secretary after consultation with the Board of Directors of the First Flight Foundation and the Commission of Fine Arts; and

(B) reviewed by the Citizens Commemorative Coin Advisory Committee.

(e) PERIOD FOR ISSUANCE OF COINS.—The Secretary may issue coins minted under this section only during the period beginning on August 1, 2003, and ending on July 31, 2004.

(f) SALE OF COINS.—

(1) SALE PRICE.—The coins issued under this section shall be sold by the Secretary at a price equal to the sum of—

- (A) the face value of the coins;
- (B) the surcharge provided in paragraph (4) with respect to such coins; and
- (C) the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(2) BULK SALES.—The Secretary shall make bulk sales of the coins issued under this section at a reasonable discount.

(3) PREPAID ORDERS.—

(A) IN GENERAL.—The Secretary shall accept prepaid orders for the coins minted under this section before the issuance of such coins.

(B) DISCOUNT.—Sale prices with respect to prepaid orders under subparagraph (A) shall be at a reasonable discount.

(4) SURCHARGES.—All sales shall include a surcharge of—

- (A) \$35 per coin for the \$10 coin;
- (B) \$10 per coin for the \$1 coin; and
- (C) \$1 per coin for the half dollar coin.

#### SEC. 6. RULE OF CONSTRUCTION.

Nothing in this Act or the amendments made by this Act shall be construed to evidence any intention to eliminate or to limit the printing or circulation of United States currency in the \$1 denomination.

(g) GENERAL WAIVER OF PROCUREMENT REGULATIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this Act.

(2) EQUAL EMPLOYMENT OPPORTUNITY.—Paragraph (1) does not relieve any person entering into a contract under the authority of this section from complying with any law relating to equal employment opportunity.

(h) TREATMENT AS NUMISMATIC ITEMS.—For purposes of sections 5134 and 5136 of title 31, United States Code, all coins minted under this subsection shall be considered to be numismatic items.

(i) DISTRIBUTION OF SURCHARGES.—

(1) IN GENERAL.—Subject to section 5134 of title 31, United States Code, all surcharges received by the Secretary from the sale of coins issued under this section shall be promptly paid by the Secretary to the First Flight Foundation for the purposes of—

(A) repairing, refurbishing, and maintaining the Wright Brothers Monument on the Outer Banks of North Carolina; and

(B) expanding (or, if necessary, replacing) and maintaining the visitor center and other facilities at the Wright Brothers National Memorial Park on the Outer Banks of North Carolina, including providing educational programs and exhibits for visitors.

(2) AUDITS.—The Comptroller General of the United States shall have the right to examine such books, records, documents, and other data of the First Flight Foundation as may be related to the expenditures of amounts paid under paragraph (1).

(j) FINANCIAL ASSURANCES.—The Secretary shall take such actions as may be necessary to ensure that minting and issuing coins under this section will not result in any net cost to the United States Government.

#### ORDERS FOR MONDAY, NOVEMBER 10, 1997

Mr. SESSIONS. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 10 a.m. on Monday, November 10. I further ask that on Monday, immediately following the prayer, the routine requests through the morning hour be granted, and the Senate proceed to a period of morning business for not to extend beyond the hour of 10:30 a.m. with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### PROGRAM

Mr. SESSIONS. Mr. President, tomorrow the Senate will be in a period of morning business until 10:30 a.m.

Following morning business, the Senate intends to consider and complete action on the following:

The fast-track bill, if passed by the House; additional motions, if necessary, with respect to the omnibus appropriations bills; and any Legislative or Executive Calendar items cleared for action.

Therefore, Members can anticipate rollcall votes during Monday's session of the Senate. However, I would not expect votes before 11 a.m.

Mr. FORD. Mr. President, as the acting leader laid out at the beginning, at 10:30, following morning business, what do you expect to go to next? Would there be any time limitations on the fast-track? If it is here.

Mr. SESSIONS. I say to the distinguished Senator from Kentucky that, of course, it has to get here first.

Mr. FORD. I understand.

Mr. SESSIONS. If it does, this unanimous consent request says we will move to the fast-track bill, if passed by the House. Additional motions, if necessary, with respect to the omnibus appropriations bill, and any Legislative or Executive Calendar items cleared for action.

Mr. FORD. I am sure this has been agreed to. This has all been cleared.

Mr. SESSIONS. I thank the Senator from Kentucky.

#### ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. SESSIONS. Mr. President, if there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:50 p.m., adjourned until Monday, November 10, 1997, at 10 a.m.

#### CONFIRMATIONS

Executive nominations confirmed by the Senate November 9, 1997:

##### FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

ROBERT H. BEATTY, JR., OF WEST VIRGINIA, TO BE A MEMBER OF THE FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING AUGUST 30, 1998.

##### EXECUTIVE OFFICE OF THE PRESIDENT

ARTHUR BIENENSTOCK, OF CALIFORNIA, TO BE AN ASSOCIATE DIRECTOR OF THE OFFICE OF SCIENCE AND TECHNOLOGY POLICY.

##### DEPARTMENT OF COMMERCE

RAYMOND G. KAMMER, OF MARYLAND, TO BE DIRECTOR OF THE NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.

##### DEPARTMENT OF THE INTERIOR

KEVIN GOVER, OF NEW MEXICO, TO BE AN ASSISTANT SECRETARY OF THE INTERIOR.

##### UNITED STATES POSTAL SERVICE

ERNESTA BALLARD, OF ALASKA, TO BE A GOVERNOR OF THE UNITED STATES POSTAL SERVICE FOR A TERM EXPIRING DECEMBER 8, 2005.

##### FEDERAL LABOR RELATIONS AUTHORITY

DALE CABANISS, OF VIRGINIA, TO BE A MEMBER OF THE FEDERAL LABOR RELATIONS AUTHORITY FOR A TERM EXPIRING JULY 29, 2002.

##### MERIT SYSTEMS PROTECTION BOARD

SUSANNE T. MARSHALL, OF VIRGINIA, TO BE A MEMBER OF THE MERIT SYSTEMS PROTECTION BOARD FOR THE TERM OF SEVEN YEARS EXPIRING MARCH 1, 2004.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

WILLIAM R. FERRIS, OF MISSISSIPPI, TO BE CHAIRPERSON OF THE NATIONAL ENDOWMENT FOR THE HUMANITIES FOR A TERM OF FOUR YEARS.

OFFICE OF PERSONNEL MANAGEMENT

JANICE R. LACHANCE, OF MAINE, TO BE DIRECTOR OF THE OFFICE OF PERSONNEL MANAGEMENT FOR A TERM OF FOUR YEARS.

THE JUDICIARY

FRANK C. DAMRELL, JR., OF CALIFORNIA, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF CALIFORNIA.

MARTIN J. JENKINS, OF CALIFORNIA, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF CALIFORNIA.

A. RICHARD CAPUTO, OF PENNSYLVANIA, TO BE U.S. DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF PENNSYLVANIA.

## HOUSE OF REPRESENTATIVES—Sunday, November 9, 1997

The House met at 2 p.m. and was called to order by the Speaker pro tempore [Mrs. EMERSON].

### DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,  
November 9, 1997.

I hereby designate the Honorable JO ANN EMERSON to act as Speaker pro tempore on this day.

NEWT GINGRICH,  
Speaker of the House of Representatives.

### PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Let us pray using the words of St. Francis:

Lord, make us instruments of Your peace.  
Where there is hatred, let us sow love;  
where there is injury, pardon;  
where there is discord, union;  
where there is doubt, faith;  
where there is despair, hope;  
where there is darkness, light;  
where there is sadness, joy.  
Grant that we may not so much seek  
to be consoled as to console;  
to be understood as to understand;  
to be loved as to love.  
For it is in giving that we receive;  
it is in pardoning that we are pardoned;  
and  
it is in dying that we are born to eternal life. Amen.

### THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House her approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. McNULTY. Madam Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER pro tempore. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. McNULTY. Madam Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5 of rule 1, further pro-

ceedings on this question are postponed.

The point of order is considered withdrawn.

### PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from New York [Mr. McNULTY] come forward and lead the House in the Pledge of Allegiance.

Mr. McNULTY led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 1086. An act to codify without substantive change laws related to transportation and to improve the United States Code;

H.R. 1787. An act to assist in the conservation of Asian elephants by supporting and providing financial resources for the conservation programs of nations within the range of Asian elephants and projects of persons with demonstrated expertise in the conservation of Asian elephants;

H.R. 2731. An act for the relief of Roy Desmond Moser; and

H.R. 2732. An act for the relief of John Andre Chalot.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 497. An act to repeal the Federal charter of Group Hospitalization and Medical Services, Inc., and for other purposes; and

H.R. 867. An act to promote the adoption of children in foster care.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1026) "An act to reauthorize the Export-Import Bank of the United States."

The message also announced that the Senate had passed bills and concurrent resolutions of the following titles, in which the concurrence of the House is requested:

S. 508. An act to provide for the relief of Mai Hoa "Jasmin" Salehi;

S. 759. An act to amend the State Department Basic Authorities Act of 1956 to require the Secretary of State to submit an annual report to Congress concerning diplomatic immunity;

S. 857. An act for the relief of Roma Salobrit;

S. 1193. An act to amend chapter 443 of title 49, United States Code, to extend the authorization of the aviation insurance program, and for other purposes;

S. 1258. An act to amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 to prohibit an alien who is not lawfully present in the United States from receiving assistance under that Act;

S. 1304. An act for the relief of Belinda McGregor;

S. 1347. An act to permit the city of Cleveland, Ohio, to convey certain lands that the United States conveyed to the city;

S. 1487. An act to establish a National Voluntary Mutual Reunion Registry;

S. Con. Res. 58. Concurrent resolution expressing the concern of Congress over Russia's newly passed religion law; and

S. Con. Res. 66. Concurrent resolution to correct the enrollment of S. 399.

### ANNOUNCEMENT OF BILLS TO BE CONSIDERED UNDER SUSPENSION OF THE RULES TODAY

Mr. SOLOMON. Madam Speaker, I would like to announce the intentions to call up the following bills under suspension today:

S. 714, Homeless Veterans;  
S. 1139, Small Business;  
H.R. 1129, Microcredit;  
H. Con. Res. 22, Scientology;  
H. Con. Res. 239, Expo 2000;  
H. Res. 245, Elections in Sahara;  
H. Con. Res. 156, Afghanistan Women;  
H.R. 1377, SAVER Act;  
H.R. 2920, Immigration Deadline;  
S. 1231, U.S. Fire Administration;  
H.R. 112, Stanislaus County;  
H.R. 1805, Auburn Indian Restoration;  
H.R. 2402, Water-Related Technical Corrections;

H.R. 2283, Arches National Park;  
S. 669, Jimmy Carter Historic Site;  
H.R. 2834, Cleveland Airport Transfer;  
H.R. 2626, Pilot Records Improvement;

H.R. 849, Uniform Relocation;  
H.R. 2476, Foreign Irlin Family; and  
H.R. 1502 James Foreman Court-house.

Mr. TRAFICANT. Madam Speaker, reserving the right to object.

The SPEAKER pro tempore. The gentleman from New York is only making an announcement pursuant to House Resolution 305.

Mr. SOLOMON. Madam Speaker, if I might continue:

H.R. 861, Adoption;  
S. 1026, Ex-Im Bank Conference Report;

H.R. 2472, EPCA; and  
The FDA Commerce Report.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

And one final bill, Madam Speaker, and one final bill, S. 1258.

#### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will recognize Members on each side for 1 minutes. There will be ten 1-minutes on each side.

#### LET US STICK TO THE DECLARATION OF INDEPENDENCE

(Mr. GUTKNECHT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUTKNECHT. Madam Speaker, last week President Clinton told the voters of Virginia, the ones who supported repealing the car tax, that they were selfish.

Well, excuse me, Mr. President, but maybe you have forgotten what the Declaration of Independence says. It says that all men are created equal and they have certain inalienable rights, and among those rights are life, liberty, and the pursuit of happiness.

I find it remarkable that anyone would not notice that liberty and the pursuit of happiness both apply to the idea of who gets to decide what to do with their money. That is really the point. This is not a question of selfishness, but whether and who will decide how to spend their money.

Conservatives emphasize that people are the best judge of how their money should be spent, whereas liberals tend to think that politicians are a superior judge of how and where the money should be spent, especially if they, the liberals, are positively excited about spending the people's money to carry out social engineering plans.

As for me, I think I will stick with the original intent of the American Declaration of Independence.

#### STAND UP FOR AMERICA: DEFEAT FAST TRACK

(Mr. KUCINICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KUCINICH. Madam Speaker, since the passage of NAFTA, NAFTA has contributed to numerous workplace, economic and environmental problems, including an increase in the import of contaminated food, downward pressure on United States wages, employer threats to move to Mexico, and a skyrocketing trade deficit.

Fast-track has failed to address any of those problems. First of all, with respect to our trade deficit growth and the loss of jobs, fast-track takes no action on that, no improvement, fails to address it.

Second, there is pressure to lower U.S. wages, and there is lowering of

wages going on in this country in manufacturing because of NAFTA. Fast-track fails to address that.

Third, since NAFTA, we have had employer threats to move to NAFTA partner countries. The fast-track agreement fails to take action on that and fails to address it.

Unless we address these critical problems in fast-track, the NAFTA problems will spread like a virus through North America and the world. We need higher standards for our wages, for our workers and for our countries. Stand up for America; defeat fast-track.

#### TRIBUTE TO MAJOR GENERAL LANSFORD E. TRAPP

(Mr. THUNE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THUNE. Madam Speaker, today I rise to pay tribute to Maj. Gen. Lansford Trapp. Most know General Trapp as the director of the Air Force's Legislative Liaison Office. I know the general as a fellow South Dakotan and a fine soldier.

The good news is that General Trapp has been selected as the next commander of the 12th Air Force. The bad news is that Congress is losing a great legislative liaison, not to mention another fine person from the Rushmore State.

Through the past 28 years, General Trapp has served in the Air Force with honor and distinction. He is a command pilot with over 3,000 flying hours. In Southeast Asia he flew over 700 combat hours and later commanded our air wing in Panama during Operation Just Cause. He has held 5 commanding positions, which is a real tribute to his leadership capabilities.

I would like to think that General Trapp's dedication to service and loyalty to his troops was instilled as a boy growing up in South Dakota. It was there where he attended South Dakota State on a ROTC scholarship, and where his parents and family still reside. I think he is also a product of the U.S. Air Force. The combination has produced an excellent commander that our Nation can be proud of.

I can think of no person more qualified to lead and care for our men and women than Gen. Lanny Trapp. To him, his wife Nancy and daughter Bethany, we wish God's blessing and Godspeed.

#### NEW TRADE POLICY FOR ALL AMERICANS

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute.)

Mr. DEFAZIO. Madam Speaker, the proponents of fast track would have us believe today's legislative battle is about whether or not the United States

will trade. This is not about a battle between protection as free traders, but rather a struggle over the conditions of that trade and who will benefit from that trade. On one side, the President, the entire administration, the Republican leadership, and a fleet of corporate CEO's who have actually been given office space right downstairs in the Capitol in violation of the House rules.

On our side, 80 percent of the Democrats and a small group of Republicans. We think it is time to overhaul our failing trade policy, a policy that has brought \$160 billion trade deficits, exported jobs, driven down wages, weakened our environmental and food safety laws, all in the name of free trade. A policy that undermines our values to encourage a race to the bottom; enriching a few multinational corporations and their CEO's at the expense of the majority of American workers and communities.

"No" to the threats, "no" to the silent promises, "no" to the legal campaign bribery, "no" to fast track, and "yes" to the beginnings of a new trade policy that benefits all Americans.

#### TIME FOR IRS REFORM

(Mr. FORBES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FORBES. Madam Speaker, the American people recently saw the IRS on trial. They saw a parade of witnesses come before the Congress to testify about the naked abuse of power over at the Internal Revenue Service. We saw current and former IRS agents who had to testify in secret because they feared for their lives. We saw ordinary citizens, taxpayers, who talked about how an audit turned their entire lives upside down, with some of them suffering great financial loss that will never be recovered. We saw a government agency totally out of control, lacking accountability, an agency where one is guilty until proven innocent.

Madam Speaker, the IRS needs radical reform. This House has taken great steps to begin that process, and we look forward to the other body and the White House to join us in this effort to reform the Internal Revenue Service, which is an agency of intimidation rather than enforcement.

#### STRAIGHT TALK ABOUT FAST TRACK

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Madam Speaker, let us tell it like it is. The last fast track traded Ma Bell for Taco Bell. Today's fast track will trade more American jobs and dollars and factories to

all of Central America for a '48 Ford pickup truck, two loads of pinto beans and three ballplayers to be named later. Beam me up.

In addition, I predict we will get another 25 tons of heroin, another 35 tons of cocaine, and a lot more economic development in the form of prisons, I say to my colleagues. Let us have a little straight talk. "This dog don't hunt. Pull this turkey."

I yield back the balance of any jobs we have left.

#### FOREIGN OPERATIONS APPROPRIATION CONFERENCE REPORT

(Mr. PAUL asked and was given permission to address the House for 1 minute.)

Mr. PAUL. Madam Speaker, I rise to point out to the House a piece of legislation that I am sure will be passed tonight or in the morning in the wee hours when a lot of people are not paying much attention, and that is the foreign operations appropriations conference report.

I would like to point out that buried in this report is a \$3.5 billion new program called the new agreements to borrow, further funding for the IMF. These are the funds that will be used to bail out Third World nations and also bail out bankers and industries that have invested in these nations such as in Mexico or Indonesia.

This is considered not to be expensive because of our special accounting procedure here, it is not on budget. It is supposed to be for free. But let me call my colleagues' attention to this: new agreements to borrow, IMF, new funding in the foreign operations bill report. This is inflationary, it is detrimental to the dollar, and it is subsidizing foreign interests as well as special banking and industrial interests here.

□ 1415

#### AMERICA NEEDS RECIPROCITY, NOT DUPLICITY, IN TRADE

(Mr. PASCRELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PASCRELL. Madam Speaker, the supporters of fast track never discuss the massive trade imbalance which grows every year, never. This reflects job loss in America. The supporters are good, very good, at denigrating organized labor's efforts to defeat fast track. Organized labor has a vested interest. The jobs of members in various unions and the jobs in nonunion workplaces are at stake.

Why is their effort a special interest, and the expenditures of millions by multinational corporations simply "in the best interests of the American economy?" How can some Members of

this House who vehemently defend the sovereignty of our Nation with foreign powers now surrender the oversight of the trade deal implementation to the World Trade Organization?

The WTO has just ruled in favor of Costa Rica and India on textile matters. What are we doing for our own sovereignty? Why sell us out again? Reciprocity, Mr. President, reciprocity, Mr. Speaker, not duplicity. Vote "no" on fast track.

#### COALGATE IN UTAH

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Madam Speaker, today I rise to inform my Members about Coalgate; no, not the toothpaste or the university, but another campaign scandal. In the heat of the 1996 campaign, President Clinton created the Grand Staircase-Escalante National Monument in Utah, which consisted of more than 1.7 million acres of land, an area larger than the State of Delaware.

The White House claims this monument was needed to protect one of the most pristine areas in America. However, I would contend that 62 billion tons of low-sulfur coal reserve was the real reason for this designation. The Lippo Group, very large donors of the President's campaign, had a large financial stake in this monument, because clean Utah coal would have competed with the imported coal from Indonesia.

It is a sad day when the President would deny schoolchildren in Utah the tax revenues of \$1.5 billion in coal or the royalties, to protect foreign interests and promote his own self-serving ambition. Madam Speaker, the definition of greed has truly been revealed to the American people. They deserve the truth.

#### PUT PEOPLE FIRST: VOTE "NO" ON FAST TRACK

(Mr. LEVIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVIN. Madam Speaker, the strategy of those of us opposing the present fast track proposal is not "America last," but putting people first. This is not mainly about the power of interest groups, but the power of issues.

In the last decade, more and more of U.S. trade has been with nations with low wages and tightly controlled labor and other markets, and with lax environmental conditions. Indeed, our imports from these nations like China, India, Brazil, Mexico rose by 25 percent in the last decade, and as an administration official said yesterday, 50 per-

cent of all United States trade will be with these nations in the near future, increasingly changing from footwear to higher-tech ware.

Instead of moving forward towards new rules of competition to meet new patterns of expanding trade, the present fast track proposal goes backwards, limiting the President's authority in important areas of labor markets and the environment. There were no such limitations on Presidents Carter, Reagan, or Bush.

This fast-track proposal is wrong. Vote "no" and let us go back and do it right.

#### END IRS PRACTICE OF MEETING QUOTAS

(Mr. HERGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HERGER. Madam Speaker, I just cannot get over the shocking news about the IRS. It turns out that the IRS is not as bad as we thought. It is even worse. It turns out that when our friendly IRS agent appears at our door for an audit, he is not thinking about giving us a fair shake. He was not sent off from headquarters with instructions to do justice, no more, no less. No, of the things that is uppermost in his mind, the thing upon which his promotions will depend, is how much money he can extract from the poor taxpayer who is getting audited.

God help you if your friendly IRS agent is having a little trouble this month making his quota of fines. If you catch him a little behind in making his revenue quota, if his boss put a little pressure on his agents in the last weekly meeting, you may not want to expect to survive your audit without having to fork over money that you do not even have.

Madam Speaker, while the President and his friends at the Treasury Department are defending the evil ways of the IRS, this Congress is going to pass real change and put an end to this absolutely outrageous practice over at the IRS.

#### TRIBUTE TO HARRY M. ROSENFELD

(Mr. McNULTY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McNULTY. Madam Speaker, I rise to pay tribute to Harry M. Rosenfeld, the editor-at-large of the Albany Times Union and one of this Nation's most highly respected journalists. Harry, who was one of my constituents, has enjoyed a long and illustrious career. He came to this country as an immigrant, was educated at Syracuse University, served his Nation proudly during the Korean war, and

embarked on a career in newspaper work. He served as foreign editor of the New York Herald Tribune and then moved to the Washington Post, where he directed the coverage of the Watergate story that earned the Post a much-deserved Pulitzer Prize.

In 1979, Mr. Rosenfeld came to New York's capital district of serve as editor-in-chief of the Albany Times Union and Knickerbocker News. During his tenure as editor, the newspaper won countless awards for general excellence and community service.

Because of Harry Rosenfeld's commitment to honest courageous reporting as the foundation of responsible journalism, he leaves his community a better place.

Harry retired from journalism last week. For nearly half a century he has served as the living embodiment of the loftiest principles of his profession. In his community and in his industry, he enjoys a well-earned reputation for integrity and undying devotion to the highest standards of his craft. I am proud to salute my friend Harry for his distinguished journalistic service to the cause of democracy. Thanks, Harry.

#### SUPPORT RADIO FREE ASIA

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Madam Speaker, today the House will debate H.R. 2232, which will increase funding for Radio Free Asia and the Voice of America broadcasting into China. By passing this bill, we will then have continuous broadcasting to China in multiple dialects and languages.

Currently, only a few hours are broadcast and in only two languages. The increased funds will allow millions of Chinese citizens to hear the truth about their own country and the world around them. Listening to the words of truth, of freedom, of respect for human rights, of democracy is fundamental to making correct decisions.

There is no free press in China. Voice of America and Radio Free Asia tell the truth of today's news without the bias, the distortion, the lies of the Chinese propaganda machine. Our broadcast will serve as a surrogate free press in the dictators' Republic of China.

I know these broadcasts can be successful. Radio Marti, which is listened to by millions in my native homeland of Cuba, has been promoting justice and freedom, the hallmarks of our great country. Castro has tried and tried to jam its signal, but he has failed. An informed citizenry is needed for true political and economic freedom. Support Radio Free Asia today.

#### VOTE NO ON THE UPCOMING FAST TRACK BILL

(Mr. BROWN of Ohio asked and was given permission to address the House

for 1 minute and to revise and extend his remarks.)

Mr. BROWN of Ohio. Madam Speaker, we have heard numerous stories of dozens of deals between President Clinton and Speaker GINGRICH to ram fast-track legislation through this Congress. The killer deal was the very first deal the White House cut.

Instead of working with Democrats on positive legislation that looked to the future, the White House cozied up to the gentleman from Georgia [Mr. GINGRICH] and the gentleman from Texas [Mr. ARCHER] on a deal that betrays our values and our historic commitment to working American families and the environment.

The Archer-Gingrich bill not surprisingly would make the Republican hostility to labor and environment the U.S. agenda in international trade negotiations, a global race to the bottom. The Archer-Gingrich bill is a fast-track to the past, not to the future.

The vast majority of Democrats, 80 percent of them, oppose the Archer-Gingrich bill because we want sensible agreements that incorporate our values as Democrats, values such as clean air and clean water, values such as safe food, values such as worker rights and human rights.

As Democrats, we can do better. Vote no on the Gingrich-Archer fast-track bill.

#### THE LEGACY OF THIS ADMINISTRATION

(Mr. BARTLETT of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTLETT of Maryland. Madam Speaker, we have really got to hand it to this administration. This is the first administration in history that has combined distinguishing characteristics and no controlling legal authority into a legal defense that the media are actually taking seriously, and then spends half the day talking about their legacy. Somehow, I think the legacy that they are likely to leave is not going to be the same legacy they have in mind.

Let us face it, when key witnesses keep turning up either dead, unwilling to testify, or hiding out in foreign countries, I do not think this is simply a question of partisan politics, despite the view repeated endlessly on ABC, NBC, and CBS that investigations into the 1996 Presidential campaign are much ado about nothing.

If there is nothing to hide, then I ask my fair-minded friends at ABC, NBC, and CBS, why are over 50 witnesses with critical information, why have they either fled the country or taken the fifth? The only scandal bigger than the Clinton-Gore campaign is the way the media have covered it since all these outrageous campaign finance vio-

lations have come to light. This, too, will be part of the legacy.

#### CONGRESS MUST MAINTAIN ITS INTEGRITY UP TO THE END OF THE SESSION

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Madam Speaker, as we bring this session of our responsibilities to the American people during this time of legislative activity to an end, I would ask this Congress to maintain its integrity.

There is a great deal of debate about legislation that is to be voted on and discussed this day, but I think that our Republican friends and certainly Democrats should understand that there are certain issues that need to be maintained separately from these discussions.

There is no doubt that sampling in the taking of the census in the year 2000 has been documented as the most accurate way of counting every human being. The homeless, people who are unhouseed, poor people, rich people, black people, Hispanic people, Anglo people, Asian people, anyone in this country needs to be counted in this Nation. So let us not play with the census.

Let us not play with the basic rights of women across the world to family plan and preserve their families.

Let us not play with the Haitians, who are the only group who are not being allowed to stay in this country to apply for their citizenship.

Maintain the integrity of this Congress, and allow these issues to go forward on their own merits. The census must have sampling, family planning must exist, and leave the Haitians alone so they, too, have the rights of everybody else.

#### EDUCATION WOULD CHANGE IF WE HAD SCHOOL CHOICE

(Mr. PETERSON of Pennsylvania asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PETERSON of Pennsylvania. Madam Speaker, there are schools in America that turn out more criminals than young people that will go out to attend college. Would Members like a choice if their child was attending that school? I believe they would.

Madam Speaker, wealthy Americans and many Congressmen and Senators make choices every day, and our President and Vice President, they send their child to the school of their choice. Many middle-class Americans choose where they live so their children can attend a school that they know is a good school. But what about poor Americans who are stuck in a bad neighborhood with a bad school?

Eighty percent of the schools in America are good and delivering a good product. Recently we had a bill that would allow choice for the poorest of Americans. What are the Democrats in the educational establishment afraid of, that it might work? We would have a chance to change education, and education would change, if we had choice. Bad schools would close, and the children would have a chance to go to a good school.

#### CALLING FOR BALANCED TRADE AGREEMENTS WHICH CONTAIN PROTECTIONS FOR WORKERS AND THE ENVIRONMENT

(Mr. NADLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NADLER. Madam Speaker, since NAFTA we have converted a \$2 billion trade surplus with Mexico to a \$20 billion trade deficit. In 65 percent of union organizing elections, employers have threatened to move to Mexico or to another foreign country if workers have chosen the advantages of collective bargaining.

Working people have gotten almost none of the benefits of our expanding economy, as real wages for the middle class have remained static and, for lower-income workers, have actually declined. NAFTA and fast track quite properly protect American investors who invest abroad and protect intellectual property rights, but they do not protect labor and environmental rights. They are imbalanced.

We must have balanced trade agreements that protect not only investments and intellectual property, but also labor and environmental standards if trade is to serve all our people, and if our expanding trade is not to serve as a tool to be used to deny a fair share of our economic gains from filtering down to working people and to the middle class. Reject the fast track agreement as imbalanced.

□ 1430

#### INVESTIGATION OF 1996 PRESIDENTIAL CAMPAIGN

(Mr. TIAHRT asked and was given permission to address the House for 1 minute.)

Mr. TIAHRT. Madam Speaker, investigations into crimes that may have been committed during the 1996 Presidential campaign are about a lot more than taking foreign money. They are a lot more than just the effort to secretly get around the rules that everyone else had to follow and then worry about explaining the misdeeds after the election.

No, Madam Speaker, the liberal media attempts to downplay this scandal. These investigations are also

about compromising national security, about selling out American foreign policy to the highest bidder and acting in complicity with the Communist Government of China to subvert the democratic process in the United States.

I believe that I am correct, Madam Speaker, that both Democrats and Republicans would agree that these charges are truly alarming. In fact, all Americans who believe in democracy, who believe that America should decide who should rule over America and who believe that secret money laundering operations represent political corruption at its most disgraceful, all believe that we must find out the truth about these scandals. Democracy demands it.

#### IN TRIBUTE TO THE LATE CLARA BOSWELL

(Mrs. CLAYTON asked and was given permission to address the House for 1 minute.)

Mrs. CLAYTON. Madam Speaker, in less than an hour, legions of families and friends will gather in the historic town of Edenton, North Carolina, to mourn the death and celebrate the life of one of my staff members, Clara Boswell. This devoted mother and grandmother and former principal passed suddenly, without notice, on Thursday night.

Clara's life was personified by her two favorite symbols, the butterfly and the hat. While the grief of those who will gather is heavy, I know they will be comforted by acclaiming the life and celebrating the life of Clara.

I am confident she has left a lasting impression on those who came to know her, and the principles that guided her will now serve as guideposts for those she leaves behind. Like the butterfly, she brought a free spirit, bright colors, in every place she functioned. And like the hat, she brought peace and protection to everyone she encountered.

She has been called to rest and to reside in the place of total peace. God's finger has gently touched her, and she now sleeps. May God comfort and help her family and friends to hold on to treasured yesterdays and to reach out with courage and hope to tomorrow, knowing that their beloved is with God.

Clara has labored long. She served well. She has made a difference. She loved the butterfly. She had a free spirit. Today we put her to rest.

#### PRIVILEGES OF THE HOUSE—DISMISSAL OF CONTEST IN 46TH DISTRICT OF CALIFORNIA

Mr. GEPHARDT. Madam Speaker, I rise to a question of the privileges of the House, and I send to the desk a privileged resolution (H. Res. 318) pursuant to rule IX and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 318

Whereas, the election contest concerning the 46th District of California should be dismissed as there is no credible evidence to show that the outcome of the election is different than the election of Congresswoman Loretta Sanchez.

Whereas, State of California authorities should continue an investigation into any questionable registration activities; and

Whereas, the Committee on House Oversight should examine voter registration procedures; and now therefore be it

Resolved, That the contest in the 46th District of California is dismissed.

THE SPEAKER PRO TEMPORE (Mrs. EMERSON). The resolution presents a question of the privileges of the House.

MOTION TO TABLE OFFERED BY MR. BOEHNER

Mr. BOEHNER. Madam Speaker, I move to table the resolution.

The SPEAKER pro tempore. The question is on the motion to table offered by the gentleman from Ohio [Mr. BOEHNER].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. OBEY. Madam Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 218, nays 194, answered "present" 1, not voting 20, as follows:

[Roll No. 622]

YEAS—218

Aderholt	Coble	Gilchrist
Archer	Coburn	Gilman
Armey	Collins	Goodlatte
Bachus	Combest	Goodling
Baker	Cook	Goss
Ballenger	Cooksey	Graham
Barr	Cox	Granger
Barrett (NE)	Crane	Greenwood
Bartlett	Crapo	Gutknecht
Barton	Cunningham	Hansen
Bass	Davis (VA)	Hastert
Bateman	Deal	Hastings (WA)
Bereuter	DeLay	Hayworth
Bilbray	Diaz-Balart	Hefley
Billrakis	Dickey	Herger
Billey	Doolittle	Hill
Blunt	Dreier	Hilleary
Boehert	Duncan	Hobson
Boehner	Dunn	Horn
Bonilla	Ehlers	Hostettler
Brady	Ehrlich	Houghton
Bryant	Emerson	Hulshof
Bunning	English	Hunter
Burr	Ensign	Hutchinson
Burton	Everett	Hyde
Buyer	Ewing	Inglis
Callahan	Fawell	Istook
Calvert	Foley	Jenkins
Camp	Fossella	Johnson (CT)
Campbell	Fowler	Johnson, Sam
Canady	Fox	Jones
Cannon	Franks (NJ)	Kasich
Castle	Frelinghuysen	Kelly
Chabot	Gallegly	Kim
Chambliss	Ganske	King (NY)
Chenoweth	Gekas	Kingston
Christensen	Gibbons	Knollenberg

Kolbe  
LaHood  
Largent  
Latham  
LaTourette  
Lazio  
Leach  
Lewis (CA)  
Lewis (KY)  
Linder  
Livingston  
LoBlundo  
Lucas  
Manzullo  
Martinez  
McCollum  
McCreery  
McDade  
McHugh  
McInnis  
McIntosh  
McKeon  
Metcalf  
Mica  
Miller (FL)  
Moran (KS)  
Morella  
Myrick  
Nethercutt  
Neumann  
Ney  
Northup  
Norwood  
Nussle  
Oxley  
Packard

Pappas  
Parker  
Paul  
Paxon  
Pease  
Peterson (PA)  
Petri  
Pickering  
Pitts  
Pombo  
Porter  
Portman  
Pryce (OH)  
Quinn  
Radanovich  
Ramstad  
Redmond  
Regula  
Riggs  
Rogan  
Rogers  
Rohrabacher  
Ros-Lehtinen  
Roukema  
Royce  
Ryun  
Salmon  
Sanford  
Saxton  
Scarborough  
Schaefer, Dan  
Schaffer, Bob  
Sensenbrenner  
Sessions  
Shadegg  
Shaw

Shays  
Shimkus  
Shuster  
Skeen  
Smith (MI)  
Smith (NJ)  
Smith (OR)  
Smith (TX)  
Smith, Linda  
Snowbarger  
Solomon  
Souder  
Spence  
Stump  
Sununu  
Talent  
Tauzin  
Thomas  
Thornberry  
Thune  
Tiahrt  
Trafcant  
Upton  
Walsh  
Watkins  
Watts (OK)  
Weldon (FL)  
Weldon (PA)  
Weller  
White  
Whitfield  
Wicker  
Wolf  
Young (AK)  
Young (FL)

Stabenow  
Stark  
Stenholm  
Strickland  
Stupak  
Tanner  
Tauscher  
Taylor (MS)  
Thompson

Thurman  
Tierney  
Torres  
Towns  
Turner  
Velázquez  
Vento  
Visclosky  
Waters

Watt (NC)  
Waxman  
Wexler  
Weygand  
Wise  
Woolsey  
Wynn

ANSWERED "PRESENT"—1

Wamp

NOT VOTING—20

Ackerman  
Bono  
Condit  
Conyers  
Cubin  
Flake  
Foglietta

Gillmor  
Gonzalez  
Hoekstra  
Klecka  
Klug  
McDermott  
Riley

Schiff  
Schumer  
Stearns  
Stokes  
Taylor (NC)  
Yates

□ 1454

Ms. PELOSI and Mr. MURTHA changed their vote from "yea" to "nay."

Mr. SHAYS and Mr. MCDADE changed their vote from "nay" to "yea."

So the motion to table was agreed to. The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

NAYS—194

Abercrombie  
Allen  
Andrews  
Baesler  
Baldacci  
Barcla  
Barrett (WI)  
Becerra  
Bentsen  
Berman  
Berry  
Bishop  
Blagojevich  
Blumenauer  
Bonior  
Borski  
Boswell  
Boucher  
Boyd  
Brown (CA)  
Brown (FL)  
Brown (OH)  
Cardin  
Carson  
Clay  
Clayton  
Clement  
Clyburn  
Costello  
Coyne  
Cramer  
Cummings  
Danner  
Davis (FL)  
Davis (IL)  
DeFazio  
DeGette  
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Hinojosa  
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Clay (TX)  
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Johnson (WI)  
Johnson, E. B.  
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Kennedy (MA)  
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Kennelly  
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Kilpatrick  
Kind (WI)  
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Poshard  
Price (NC)  
Rahall  
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Reyes  
Rivers  
Rodriguez  
Roemer  
Rothman  
Roybal-Allard  
Rush  
Sabo  
Sanchez  
Sanders  
Sandlin  
Sawyer  
Scott  
Serrano  
Sherman  
Sisisky  
Skaggs  
Skelton  
Slaughter  
Smith, Adam  
Snyder  
Spratt

CORRECTION OF ANNOUNCEMENT OF LEGISLATION TO BE CONSIDERED UNDER SUSPENSION OF THE RULES TODAY

Mr. BEREUTER. Madam Speaker, earlier today when announcing motions to suspend the rules, an incorrect number was announced for the adoption bill. The correct number is H.R. 867, not H.R. 861.

RADIO FREE ASIA ACT OF 1997

Mr. ROYCE. Madam Speaker, pursuant to House Resolution 302 and as the designee of the chairman of the Committee on Internal Relations, I call up the bill (H.R. 2232) to provide for increased international broadcasting activities to China, and ask for its immediate consideration in the House.

The Clerk read the title of the bill. The SPEAKER pro tempore (Mrs. EMERSON). The bill is considered read for amendment.

The text of H.R. 2232 is as follows:  
H.R. 2232

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the "Radio Free Asia Act of 1997".

SEC. 2. FINDINGS.

The Congress makes the following findings:  
(1) The Government of the People's Republic of China systematically controls the flow of information to the Chinese people.

(2) The Government of the People's Republic of China demonstrated that maintaining its monopoly on political power is a higher priority than economic development by announcing in January 1996 that its official news agency Xinhua, will supervise wire

services selling economic information, including Dow Jones-Telerate, Bloomberg, and Reuters Business, and in announcing in February of 1996 the "Interim Internet Management Rules", which have the effect of censoring computer networks.

(3) Under the May 30, 1997, order of Premier Li Peng, all organizations that engage in business activities related to international computer networking must now apply for a license, increasing still further government control over access to the internet.

(4) Both Radio Free Asia and the Voice of America, as a surrogate for a free press in the People's Republic of China, provide an invaluable source of uncensored information to the Chinese people, including objective and authoritative news of in-country and regional events, as well as accurate news about the United States and its policies.

(5) Radio Free Asia currently broadcasts only 5 hours a day in the Mandarin dialect and 2 hours a day in Tibetan.

(6) Voice of America currently broadcasts only 10 hours a day in Mandarin and 3½ hours a day in Tibetan.

(7) Radio Free Asia and the Voice of America should develop 24-hour-a-day service in Mandarin, Cantonese, and Tibetan, as well as further broadcasting capability in the dialects spoken in Xinjiang and other regions of the People's Republic of China.

(8) Radio Free Asia and Voice of America, in working toward continuously broadcasting the People's Republic of China in multiple languages, have the capability to immediately establish 24-hour-a-day Mandarin broadcasting to that nation by staggering the hours of Radio Free Asia and the Voice of America.

(9) Simultaneous broadcasting on Voice of America radio and Worldnet television 7 days a week in Mandarin are also important and needed capabilities.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS FOR INCREASED FUNDING FOR RADIO FREE ASIA AND VOICE OF AMERICA.

(a) AUTHORIZATION OF APPROPRIATIONS FOR INTERNATIONAL BROADCASTING TO CHINA.—In addition to such sums as are otherwise authorized to be appropriated for "International Broadcasting Activities" for fiscal years 1998 and 1999, there are authorized to be appropriated for "International Broadcasting Activities" \$46,900,000 for fiscal years 1998 and \$31,200,000 for fiscal year 1999, which shall be available only for broadcasting to China.

(b) LIMITATIONS.—

(1) RADIO FREE ASIA.—  
(A) Of the funds authorized to be appropriated under subsection (a) \$26,900,000 is authorized to be appropriated for fiscal year 1998 and \$21,200,000 is authorized to be appropriated for fiscal year 1999 for Radio Free Asia.

(B) Of the funds under subparagraph (A), \$1,200,000 is authorized to be appropriated for each such fiscal year for additional personnel to staff Cantonese language broadcasting.

(C) Of the funds under subparagraph (A) authorized to be appropriated for fiscal year 1998, \$900,000 is authorized to be appropriated for additional advanced editing equipment.

(2) 1998.—

(A) Of the funds under subsection (a) authorized to be appropriated for fiscal year 1998, \$11,800,000 is authorized to be appropriated for capital expenditures for the purchase and construction of transmission facilities.

(B) Of the funds under subsection (a) authorized to be appropriated for fiscal year

1998, \$3,000,000 is authorized to be appropriated to facilitate the timely augmentation of transmitters at Tinian, Marshall Islands.

(c) ALLOCATION.—Of the amounts authorized to be appropriated under subsection (a), the Director of the United States Information Agency and the Board of Broadcasting Governors shall seek to ensure that the amounts made available for broadcasting to nations whose people do not fully enjoy freedom of expression do not decline in proportion to the amounts made available for broadcasting to other nations.

#### SEC. 4. REPORTING REQUIREMENT.

Not later than 90 days after the date of enactment of this Act, in consultation with the Board of Broadcasting Governors, the President shall prepare and transmit to Congress a report on a plan to achieve continuous broadcasting of Radio Free Asia and Voice of America to the People's Republic of China in multiple major dialects and languages.

#### SEC. 5. REDUCTION IN AUTHORIZATION OF APPROPRIATIONS FOR MIGRATION AND REFUGEE ASSISTANCE.

Notwithstanding any other provision of law, such amounts as are authorized to be appropriated for "Migration and Refugee Assistance" for fiscal year 1998 shall be reduced by \$21,900,000 and for fiscal year 1999 shall be reduced by \$6,200,000.

The SPEAKER pro tempore. Pursuant to House Resolution 302, the committee amendment in the nature of a substitute printed in the bill is adopted.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 2232

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Radio Free Asia Act of 1997".

#### SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) The Government of the People's Republic of China systematically controls the flow of information to the Chinese people.

(2) The Government of the People's Republic of China demonstrated that maintaining its monopoly on political power is a higher priority than economic development by announcing in January 1996 that its official news agency Xinhua, will supervise wire services selling economic information, including Dow Jones-Telerate, Bloomberg, and Reuters Business, and in announcing in February of 1996 the "Interim Internet Management Rules", which have the effect of censoring computer networks.

(3) Under the May 30, 1997, order of Premier Li Peng, all organizations that engage in business activities related to international computer networking must now apply for a license, increasing still further government control over access to the Internet.

(4) Both Radio Free Asia and the Voice of America, as a surrogate for a free press in the People's Republic of China, provide an invaluable source of uncensored information to the Chinese people, including objective and authoritative news of in-country and regional events, as well as accurate news about the United States and its policies.

(5) Radio Free Asia currently broadcasts only 5 hours a day in the Mandarin dialect and 2 hours a day in Tibetan.

(6) Voice of America currently broadcasts only 10 hours a day in Mandarin and 3½ hours a day in Tibetan.

(7) Radio Free Asia and Voice of America should develop 24-hour-a-day service in Mandarin, Cantonese, and Tibetan, as well as further broadcasting capability in the dialects spoken in the People's Republic of China.

(8) Radio Free Asia and Voice of America, in working toward continuously broadcasting to the People's Republic of China in multiple languages, have the capability to immediately establish 24-hour-a-day Mandarin broadcasting to that nation by staggering the hours of Radio Free Asia and Voice of America.

(9) Simultaneous broadcasting on Voice of America radio and Worldnet television 7 days a week in Mandarin are also important and needed capabilities.

#### SEC. 3. AUTHORIZATION OF APPROPRIATIONS FOR INCREASED FUNDING FOR RADIO FREE ASIA AND VOICE OF AMERICA BROADCASTING TO CHINA.

(a) AUTHORIZATION OF APPROPRIATIONS FOR RADIO FREE ASIA.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for "Radio Free Asia" \$30,000,000 for fiscal year 1998 and \$22,000,000 for fiscal year 1999.

(2) LIMITATIONS.—

(A) Of the funds under paragraph (1) authorized to be appropriated for fiscal year 1998, \$8,000,000 is authorized to be appropriated for one-time capital costs.

(B) Of the funds under paragraph (1), \$700,000 is authorized to be appropriated for each such fiscal year for additional personnel to staff Cantonese language broadcasting.

(b) AUTHORIZATION OF APPROPRIATIONS FOR INTERNATIONAL BROADCASTING TO CHINA AND NORTH KOREA.—In addition to such sums as are otherwise authorized to be appropriated for "International Broadcasting Activities" for fiscal years 1998 and 1999, there are authorized to be appropriated for "International Broadcasting Activities" \$10,000,000 for fiscal year 1998 and \$7,000,000 for fiscal year 1999, which shall be available only for enhanced Voice of America broadcasting to China and North Korea.

(c) AUTHORIZATION OF APPROPRIATIONS FOR RADIO CONSTRUCTION.—

(1) AUTHORIZATION OF APPROPRIATIONS.—In addition to such sums as are otherwise authorized to be appropriated for "Radio Construction" for fiscal years 1998 and 1999, there are authorized to be appropriated for "Radio Construction" \$10,000,000 for fiscal year 1998 and \$3,000,000 for fiscal year 1999, which shall be available only for construction in support of enhanced broadcasting to China.

(2) LIMITATION.—Of the funds under paragraph (1) authorized to be appropriated for fiscal year 1998, \$3,000,000 is authorized to be appropriated to facilitate the timely augmentation of transmitters at Tinian, the Commonwealth of the Northern Mariana Islands.

(d) ALLOCATION.—Of the amounts authorized to be appropriated for "International Broadcasting Activities", the Director of the United States Information Agency and the Board of Broadcasting Governors shall seek to ensure that the amounts made available for broadcasting to nations whose people do not fully enjoy freedom of expression do not decline in proportion to the amounts made available for broadcasting to other nations.

(e) ALLOCATION OF FUNDS FOR NORTH KOREA.—Of the funds under subsection (b), \$2,000,000 is authorized to be appropriated for each fiscal year for additional personnel and broadcasting targeted at North Korea.

#### SEC. 4. REPORTING REQUIREMENT.

Not later than 90 days after the date of enactment of this Act, in consultation with the

Board of Broadcasting Governors, the President shall prepare and transmit to Congress a report on a plan to achieve continuous broadcasting of Radio Free Asia and Voice of America to the People's Republic of China in multiple major dialects and languages.

#### SEC. 5. UTILIZATION OF UNITED STATES INTERNATIONAL BROADCASTING SERVICES FOR PUBLIC SERVICE ANNOUNCEMENTS REGARDING FUGITIVES FROM UNITED STATES JUSTICE.

United States international broadcasting services, particularly the Voice of America, shall produce and broadcast public service announcements, by radio, television, and Internet, regarding fugitives from the criminal justice system of the United States, including cases of international child abduction.

The SPEAKER pro tempore. Pursuant to House Resolution 302, the gentleman from California [Mr. ROYCE] and the gentleman from Indiana [Mr. HAMILTON] each will control 30 minutes.

The Chair recognizes the gentleman from California [Mr. ROYCE].

GENERAL LEAVE

Mr. ROYCE. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this measure.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. ROYCE. Madam Speaker, I yield myself such time as I may consume. Madam Speaker, for the last few days, the House of Representatives has been debating policy for the most important bilateral relationship the United States has, and that is our relationship with the People's Republic of China. We have heard different views on how we should deal with this emerging power. It has been a good debate, a healthy debate for us to have. I have supported the initiatives that are part of that policy for freedom in China package, because together they contribute to a well-crafted China policy, a policy which positions the United States to stand up forcefully for our values and protect our national security. For certain our relationship with China is not easy. It will be the most challenging relationship we face in the next century. Moving forward, we must have principles to guide this relationship. For one, in all our dealings with the Beijing regime, it is essential that we do not shy away from our values. This means calling the Chinese leadership on democracy and on human rights, spotlighting the organ harvesting many Members have spoken against on this floor, and acting when we can. Standing up for our values also means promoting the free flow of uncensored information, which is the lifeblood of our values that Americans cherish and wish for the Chinese people.

□ 1500

That is why I am proud to be the author of the Radio Free Asia Act of 1997.

Everyone here has heard of Radio Free Europe; that is our effort which was so effective during the cold war in bringing information to those stuck behind the Iron Curtain. At that time we told the people of Eastern Europe what was happening in their own countries, but it was not really us telling them. It was the voices of Hungarians and Czechs and Poles broadcast on Radio Free Europe, telling their fellow countrymen about the politics and other developments in their home countries, and through this surrogate broadcasting Hungarians and Czechs and Poles and others were able to learn about human rights abuses and repression in their own countries and to ask why.

This information transmitted through the airwaves was tremendously effective in bringing about the demise of totalitarian regimes in these countries. How do we know that?

Lech Walesa of Poland and Vaclav Havel and Alexander Dubcek of Czechoslovakia, men who pulled the foundation out from communism, have said that Radio Free Europe did more than anything else to change those Communist regimes of Eastern Europe. It is clear, information is deadly to dictators. The Chinese people deserve no less of an effort from us.

Radio Free Asia has been up and running, breaking official silence in Asia for over a year now. It is patterned after Radio Free Europe. Radio Free Asia targets countries where Asians are unable to hear about developments in their own country, unable to hear about what is happening in their own capitals and even in their own cities and towns. Some 95 percent of Radio Free Asia's programming focuses on people and events within that targeted country. So while no Lech Walesa has emerged in China, I believe Radio Free Asia is one of the most powerful tools we have for promoting democracy and promoting human rights in China.

This bill will provide the means to broadcast 24 hours a day into China and Tibet and to expand broadcasting in North Korea. This round-the-clock broadcasting in Mandarin, Cantonese, Tibetan, and other dialects will be an invaluable source of uncensored information for the Chinese people, information they otherwise would be denied.

What do the Chinese people hear on Radio Free Asia? Weekly commentators, a discussion of topical issues with Chinese journalists. They hear *China In Perspective*, which deals with a range of issues, including the Chinese media; politics in the media; Tibet Today, a discussion of current issues in Tibet; "Voices of Current Party Members", which is a weekly discussion with current party members hosted by

a former editor of the *People's Daily*; and they have their own "Crossfire" show that they hear as well.

That sounds like pretty standard news and information, right? But it is not standard in a totalitarian country. And so the Beijing regime has complained. A Chinese Foreign Ministry spokesman recently denounced Radio Free Asia, saying it was using freedom of speech as an excuse to interfere in China's internal affairs. Freedom of speech and interference in internal affairs, and the Chinese Government has punished those caught listening to Radio Free Asia.

It also has tried to shut out these broadcasts through jamming. This jamming is not too effective though, and it will be less effective after the new transmitter approved by the Radio Free Asia Act of 1997 is built.

The fact is that there is no denying Radio Free Asia. Just look at this map of China. Each orange dot on this map represents a significant cluster of letters received by Radio Free Asia's Chinese listeners. Up and running only a little over a year, Radio Free Asia has received hundreds of these letters, many of them from students, which indicate that young people are listening as well, and let me just read sections of two.

This is from a worker in a labor union written this past September. He says, "every day in the past 8 months, 2 hours of my day belong to Radio Free Asia, which brings a fresh spring breeze to the stifling and repressed China and lets us see the hope for a free and democratic China."

Another letter written 2 months ago, quote: "Like most of my Chinese countrymen, I did not know what press freedom was and what human rights were, did not even know that Taiwan called itself the Republic of China and that the Dalai Lama even was awarded the Nobel Peace Prize. Then I bought a radio set, which made me hunger knowledge as I never have before."

I cannot imagine more powerful words, and I have nothing to add to those words.

Madam Speaker, I reserve the balance of my time.

Mr. HAMILTON. Madam Speaker, I yield myself such time as I may consume.

I rise in support of the bill. The bill authorizes \$30 million for Radio Free Asia for fiscal year 1998, \$22 million for fiscal year 1999. It authorizes an additional \$10 million for enhanced VOA broadcasting in China and North Korea for fiscal year 1998, and \$7 million for the same purpose in fiscal year 1999. The bill also authorizes an additional \$10 million in fiscal year 1998 and \$3 million for fiscal year 1999 for radio construction in support of enhanced broadcasting to China.

The bill requires that within 90 days the President and the Board of Broad-

casting Governors submit to the Congress a plan to achieve 24-hour broadcasting of Radio Free Asia and Voice of America to China in multiple dialects and languages.

The authorization funding for Radio Free Asia in this bill is identical to that provided in the State Department authorization conference language, so in a sense this is an issue that has already been agreed upon. There is additional authorization here for Voice of America broadcasting in China and North Korea and for radio construction that represents an increase in authorization levels from the State Department authorization conference language or the Commerce-Justice-State conference contemplated funding levels.

Insofar as I know, the administration has no objection to this bill. It did have some problems with the original bill. I think they have been addressed in the markup of the bill.

I totally agree with the sponsors of the bill that the promotion through Radio Free Asia of democracy and human rights is an extremely important element of U.S. foreign policy and one that we should support. I urge then the support for the bill.

Madam Speaker, I reserve the balance of my time.

Mr. ROYCE. Madam Speaker, I yield 3 minutes to the distinguished gentleman from New York [Mr. GILMAN], the chairman of the Committee on International Relations.

Mr. GILMAN. Madam Speaker, I am pleased to rise in support of H.R. 2322 sponsored by the gentleman from California [Mr. ROYCE]. This measure is an important enhancement to our international broadcasting to Asia.

Broadcasting to Asia, and particularly to China, is vital to the spread and support of democracy and the freedom of expression. I fully support the measure to expand broadcast capabilities of Radio Free Asia and the Voice of America through additional funding for personnel, for transmitters and for other broadcast requirements.

I commend the gentleman from California [Mr. ROYCE], the distinguished chairman of our Committee on International Relations Subcommittee on Africa for his foresight in drafting this bill. This additional funding that is supported by the Speaker and the President will increase the opportunity for the peoples living under communism in Asia to hear news and other programming untainted by State news services. Mr. ROYCE's worthy proposal will increase transmissions in Mandarin, Cantonese, Tibetan languages and other dialects. It is hoped that when we work with the Senate in conference on this proposal, we will not forget to add the Uygers in East Turkestan.

I commend the gentleman and urge our colleagues to support this measure.

Mr. HAMILTON. Madam Speaker, I reserve the balance of my time.

Mr. ROYCE. Madam Speaker, I yield 3½ minutes to the distinguished gentleman from Nebraska [Mr. BEREUTER], chairman of the Subcommittee on Asia and the Pacific.

Mr. BEREUTER. Madam Speaker, I would like to begin with an announcement. As some of the Members know, the Speaker appointed a bipartisan task force on the Hong Kong transition, were to give a quarterly report, and I want my colleagues to know that the first quarterly report or a summary thereof will be in the CONGRESSIONAL RECORD for today.

Madam Speaker, this legislation is very important. I rise in strong support of it and commend my distinguished colleague, the gentleman from California [Mr. ROYCE], for introducing this legislation. Madam Speaker, as mentioned this legislation authorizes appropriations specifically for broadcasting to China and North Korea and construction of broadcasting facilities. The purpose of this is to enhance America's ability to broadcast, increase the number of languages and dialects in which Radio Free Asia can broadcast.

As the chairman of the subcommittee, my colleagues might be interested in knowing that in order to assure that accurate, timely, uncensored news and information gets to China, Vietnam, Burma, Cambodia, North Korea and the rest of East Asia, that it is important to support the activities of Radio Free Asia and the Voice of America. Radio Free Asia can provide news to those who otherwise cannot obtain it because many of the governments in the region systematically control the flow of information to their own citizens.

Currently United States broadcasting in Chinese dialects totals only 7.5 hours daily by Radio Free Asia and 13 hours daily by Voice of America. This will permit expansion of broadcasting to 24 hours per day in Mandarin Chinese, plus expanded broadcasting in Cantonese, Tibetan, and other dialects. The combined Voice of America and Radio Free Asia broadcast to the region will provide listeners with a full-service broadcast covering local, national and international news, together with U.S. news and discussion of foreign policy. This would be the first around-the-clock broadcasting in Mandarin to China by any nation.

This resolution would also support one-time expenditures required to ensure reliable transmission of broadcasts to listeners in China and North Korea. This includes the purchase, modification, and operation of a transmission station in Saipan. Actually I think it is Tinian, an United States territory currently providing the strongest broadcast signal to China. The transmitter would also give Radio

Free Asia a permanent transmission site, something it now lacks. The increased funds will also go to augment relay stations that carry the message on to China and other Asian countries.

Madam Speaker, in a world where Chinese military and diplomatic influence is growing, it is useful to remember the lessons of Radio Free Europe. Diplomats may have dismissed those broadcasts, but ordinary people listened. Eventually it was these ordinary people who were able to change those Communist systems.

The people of Asia who live under authoritarian regimes deserve no less of a commitment from the United States. If we are serious about spreading the voice of democracy to China, Vietnam, Cambodia, North Korea, Burma, and other authoritarian States in East Asia, this legislation assures that the message of democracy reaches the broadest possible audience.

In conclusion, Madam Speaker, this Member again would like to commend the distinguished gentleman from California [Mr. ROYCE] for his dedication and assistance in making this important increase in funding for Radio Free Asia and the Voice of America. It is an initiative which this Member has advocated in the House Committee on International Relations and elsewhere, and I thank this gentleman for bringing it to fruition.

Mr. HAMILTON. Madam Speaker, I yield 3 minutes to the distinguished gentleman from Indiana [Mr. ROEMER].

Mr. ROEMER. Madam Speaker, I thank my good friend and fellow Hoosier from Indiana for yielding this time to me, and I rise in strong support of this legislation.

I think this legislation has been explained very well by Members on both the Republican and the Democratic side. This bill authorizes \$30 million for Radio Free Asia for fiscal year 1998 and \$22 million for fiscal year 1999. As importantly, the bill authorizes an additional 10 million for enhanced VOA broadcasting in China and in North Korea for fiscal year 1998 and 7 million for the same purpose for fiscal year 1999.

As we have talked, Madam Speaker, this past week about American values, about human rights, about putting emphasis on these kinds of things in our very important bilateral relationship between the United States and China, this bill, I think, is at the crux of many of the things that the United States stands for.

□ 1515

We have engaged, I think, the past 2 weeks, when Jiang Zemin visited this country, in what the President has very appropriately called constructive engagement.

Now, there are some in this body that feel like we should not engage with the Chinese. I personally strongly support

the President's constructive engagement. That means that you sit down and listen to one another, you meet with one another, and, at times, you strongly disagree with one another.

There is no better example, and I say to my colleagues on constructive engagement, there is no better example of this than when the President was having a press conference with Jiang Zemin last week and a reporter asked them about Tiananmen Square. And Jiang Zemin said they did, in fact, what they had to do to restore economic and social stability.

And then the President had his turn, and the President very forcefully said, "I disagree, and you did the wrong thing. You did not do what was just, you did not stand up for human rights, and you will continue to be isolated in the world if you engage like that."

That is constructive engagement. I think in the most important bilateral relationship that our two countries will engage in, the Chinese and the American people in the next 20 and 30 and 50 years, the President's policy is right on the mark.

Now, I also think that we have engaged in some very constructive votes this past week. I personally have voted to stop the coerced abortions, and I applaud this body for that. I have voted to more prominently monitor human rights, and I applaud this body for that. I encourage more religious freedom in China. I think that these are the kinds of things we need to engage in with the Chinese, constructive engagement, and not destructive rhetoric.

I applaud the author of this bill, and I strongly encourage my colleagues to support it.

Mr. ROYCE. Madam Speaker, I yield 3 minutes to the gentleman from New York [Mr. SOLOMON], the distinguished chairman of the Committee on Rules.

Mr. SOLOMON. Madam Speaker, I certainly thank the gentleman from California for yielding me time.

Madam Speaker, as we bring this China package to a close, I would just once again like to thank all of these people who helped make this happen, the gentleman from California [Mr. COX], the gentleman from New York [Mr. GILMAN], the gentleman from New Jersey [Mr. SMITH], the gentlewoman from California [Ms. PELOSI], the gentleman from Missouri [Mr. GEPHARDT] on the other side of the aisle, and all of the rest of the Members and staff who have been so committed on this for such a long time.

This has been a grueling process, yes, it has; several days on the floor, and months, even years of work, by the people that I have just mentioned.

But for those who are fatigued, and I certainly am, we must remember, what we endure is nothing compared to what the people of China have endured on a daily basis, every single day throughout the 48-year reign of the Communists in that unfortunate country,

and they are the reason we have been here for the past several days with this very, very vital legislation, for we all know that when the people of China are free, America and China will develop a long-lasting friendship, and that is the way it ought to be, based on respect, based on trust and the mutual interests of 1.5 billion people.

That is why it is fitting that we end this process with the gentleman from California [Mr. ROYCE], and I commend the gentleman from California [Mr. ROYCE] on this bill to enhance the capabilities of Radio Free Asia and the Voice of America to broadcast the truth to the Chinese people.

Madam Speaker, few things could be more heartening than to hear the stories from the victims of Communist repression in the former Soviet Union about how Radio Liberty about how Radio Free Europe and the Voice of America kept their hopes alive, gave them a beacon of hope during their darkest hours behind that Iron Curtain, and now they are free. Awareness of the truth and the knowledge that someone else really cared about them kept these people going under the worst of circumstances.

Madam Speaker, this is real engagement, engagement with the people of China, not with those Communist thugs who repress them, who imprison them, who beat them and give them a bad name abroad with their missile diplomacy and rogue activities. And we all know what we have been talking about for the last 3 weeks.

Radio Free Asia and the Voice of America are underfunded. They are only broadcasting a few hours a day and only a couple of dialects. This bill rectifies that by giving \$50 million for this year alone.

Madam Speaker, if the Committee on Appropriations sees fit to provide this money, and we all here will see they will, I can even suggest a perfect offset. Thursday night, this House approved my bill to oppose the World Bank's soft loans to the Communist Government of China by an overwhelming majority.

In 1996, the World Bank loaned about \$500 million to these thugs in Beijing. Since the United States owns about 15 percent of the World Bank, that means American taxpayers directly gave the Communist dictators in Beijing \$75 million of the taxpayers' money in interest-free, 35-year loans, and a 30-year grace period. We can put an end to that.

Madam Speaker, I thank the gentleman for yielding me this time. And this is perhaps the fitting end to these 10 bills that we have brought on this floor. The gentleman is to be commended. Let us come over here and vote unanimously for this vital piece of legislation.

Mr. ROYCE. Madam Speaker, I yield 2½ minutes to my colleague, the gentleman from California [Mr. ROHRBACHER].

Mr. ROHRBACHER. Madam Speaker, I rise in strong support of this amendment and Radio Free Asia. I would like to compliment the gentleman from California [Mr. ROYCE], my colleague and fellow Orange Countian, who has done so much over the years on this issue. He has made it real.

Ed, congratulations for a job well done.

There would not be a Radio Free Asia in the works and heading toward going on the air if it was not for the fact that the gentleman from California [Mr. ROYCE] put in so much time and effort on this commendable piece of legislation.

During the cold war, we must remember that it was not our weapons and technology alone that won the day and ushered the world into a new era of peace and prosperity. And peace and prosperity is yet to prevail, but we have more opportunities for that than we have had during my entire lifetime.

While the courage of the Armed Forces and their technological edge was certainly an imperative that we needed during the cold war, our commitment to Radio Free Europe, the Voice of America, and Radio Liberty kept alive the flame of freedom in the hearts of people who were oppressed from the Balkans to the Baltics. This flame was in the hearts of America's greatest allies.

Our greatest allies in the cold war were those people who lived in Communist countries. And when they knew that we did not forget them, the flame lived on and eventually that conflagration brought down the Communist empire. With communism we were able to destroy the wills of the leadership by mustering support among the people they repressed.

The Good Book tells us that the truth will make you free. Today, with the Soviet collapse, it is our turn now; we must turn to finish the job. We must show the people of Asia that we have as great a commitment to their freedom as we had to the people of Europe.

Radio Free Asia will affirm to the good people throughout Asia that we are on their side, and they need this message when they can only see U.S. corporations exploiting their cheap labor, exploiting their environmental laws that permit corporations to come in and exploit the environment. When they see these, they need to be reaffirmed.

The people of Asia need a confirmation that we are on their side, and that is what Radio Free Asia will do. The Ughyurs, for example, in East Turkmenistan, now live under the heel of the Communist dictatorship in Beijing. We need to broadcast to those and other people, whether they be in Burma, Vietnam, or elsewhere, we believe in freedom, and if we hold firm to

our principles in the United States of America, those principles of our Founding Fathers, we will finish the job of ending the cold war, and indeed the world will have a new era of peace and prosperity and freedom.

Mr. HAMILTON. Madam Speaker, I yield 3 minutes to the distinguished gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE of Texas. I, too, rise this afternoon to give my appreciation for the author of this legislation and as well the ranking member of this committee for coming together around a very instructive and creative opportunity for us to recognize and to commemorate, if you will, the results of Radio Free Europe.

I can almost say to this House, need I say any more, all of us who have grown up in the World War era are aware of the impact of Radio Free Europe. In fact, it became the symbol of freedom. And as we listened ourselves, hearing about stories and reports on Radio Free Europe, needless to say, those voices that were being heard were impacting on smaller ears, younger people, people who thought that freedom now could be a reality for them.

Why not Radio Free Asia? In the time of child labor, religious persecution, and the denial of free thought, in one of the biggest markets in this world, do we not have the responsibility to say that economics is important but the free thought of those who live under those systems has to be of primary importance to those of us who claim capitalism on the economic side but freedom of thought and religion on the social justice side?

Yes, many of us have supported most favored nation and we recognize through our corporate community that Southeast Asia is an attractive market. But can we stand by while the dollars flow in and out, while the markets increase, and yet there are people in these nations who cannot gather in their homes to worship their God?

There are people in these nations who cannot think freely for themselves to worship as they desire. And, yes, there are those who have been called to claim the message of whatever faith they believe in who cannot speak.

Radio Free Asia has to exist. We must use it responsibly, however. It cannot be accusatory. It cannot be threatening. It should not be where it is decisive. We simply have to let them hear the truth. We simply have to have them hear the voices of reason. We simply have to have those voices of free thought who can speak about the issues in a free and thoughtful manner be projected on those younger ears, those ears of those who have not heard.

I think Radio Free Asia will tell the real story. Once you hear and once you understand, then you will act. That is what this whole opportunity for Radio

Free Asia will generate, and that is a hearing and understanding and an acting.

Madam Speaker, I would simply say that the dollar is not the almighty dollar as some of us have heard it claimed. It must be balanced with the freedom of speech and understanding, the freedom of religion, the freedom of thought. And out of that comes a real appreciation for where you live, and the value of the dollar diminishes when you have freedom for all.

I thank the author of the bill and encourage all of my colleagues to vote for this very timely legislation.

Mr. ROYCE. Madam Speaker, I yield 2 minutes to my colleague, the gentleman from Arizona, [Mr. SALMON], who speaks Mandarin and has spent time in China.

Mr. SALMON. Madam Speaker, I thank the gentleman for introducing this badly needed piece of legislation. In fact, I do not think I am alone in believing that this alone will probably go further than almost anything else that we have done this week or probably this year.

Mr. Rohrabacher made a comment, in fact quoted my favorite scripture from the New Testament, when he said, you shall know the truth and the truth shall make you free. Unfortunately, in China the truth does not find a way of filtering itself down to the common people on a daily basis.

I saw some footage last week when President Jiang Zemin visited these United States about the coverage in China, and it is interesting, because as we know, in watching our media, when Mr. Jiang went from place to place, there were numerous protests regarding various policies, regarding policies regarding Tibet, regarding policies dealing with religious worship, regarding policies dealing with forced abortion. In fact, it was a very mixed bag of reviews. Most of the stops that he made had very, very angry people.

But none of that was filtered down to the common citizens in China. They never heard that information. They think everything is hunky-dory and we all love the guy.

That kind of information has to get down to the people so they do not give way to despondency, so they can keep some hope, some courage, that freedom is very much alive here in this country and we are still plugging for them.

When we continue with MFN, which a majority of Members in this body supported, sometimes I wonder if they get a mixed message, a wrong message. Many of us who support MFN also care deeply about human rights. We don't believe it is OK to turn a deaf ear to the human misery and suffering going on in China. We believe it is time for tough talk.

As the gentleman from Indiana [Mr. ROEMER] said, the President made some very tough statements last week, as he

should have. That needs to be filtered down to the rank and file. They need to know that we care; they need to know we are with them, that we believe in freedom and that we believe it will happen if we persevere. That is what constructive engagement is all about.

Congratulations, Mr. ROYCE. This bill is going to go a long way to providing truth for the Chinese people.

Mr. ROYCE. Madam Speaker, I yield 2½ minutes to the gentleman from Arkansas [Mr. HUTCHINSON].

□ 1530

Mr. HUTCHINSON. Madam Speaker, I rise in strong support of H.R. 2232, and I want to express my appreciation to the gentleman from California for his leadership on this very important issue.

As a new Member of Congress, I believe this legislation involves one of the most important issues we have dealt with. My colleagues might ask why is that the case, and it is because it involves the fundamental issues of freedom and liberty.

I think about my father, who is now deceased, but when wartime came around, he was past draft age, he had 4 children, he did not need to go, but he went to serve in our Armed Forces. Why did he go, as so many others went? Because it was not necessarily what was happening in America, but it was about what America stood for; it was about liberty, it was about freedom, it was about supporting that voice around the world.

I think it is what America stands for. Today, the Voice of America, Radio Free Asia, needs to be strengthened in China. Madam Speaker, \$10 million for the Voice of America, \$20 million for Radio Free Asia. It is money well spent.

I think about Tiananmen Square and the images that that portrayed across America of those Chinese students, in their way, standing for freedom and speaking against a repressive regime. What can we do to help them?

Well, there are some things that we can do in these bills that we have passed, and China sanction legislation represents that. But there is one thing that government cannot stop and that is the Voice of America, it is the voice of freedom, the voice of liberty. Truth, truth cannot be shut out. If we can get that message in, then we can encourage those people who are still being repressed; we can raise the voice and awareness of democracy.

There is a temptation in America today that we should withdraw from world affairs, that we do not need to be concerned with what happens in China, and I reject that argument. I believe that we still need to be the leader of the free world. As Alexander Solzhenitsyn said, who is the Russian dissident who spent years in the gulag, "If America does not lead the free world,

then the free world will not have a leader."

This is a small burden to pay for the price of liberty. We should support it enthusiastically. I urge my colleagues to support it.

Mr. HAMILTON. Madam Speaker, I yield 3 minutes to the distinguished gentleman from Illinois [Mr. PORTER].

Mr. PORTER. Madam Speaker, I thank the gentleman from Indiana for his graciousness in yielding me this time. I commend him and the gentleman from California [Mr. ROYCE] for their tremendous leadership in bringing this bill to the floor of the House of Representatives.

Madam Speaker, when we complete this series, we will have passed nine very significant bills designed to effect change in China. While I am biased on this matter, I believe this is the best of the nine, and I believe that because I think it has more potential than any of the others in really providing for change in Chinese society.

We know this because of the record of Radio Liberty and Radio Free Europe during the cold war. Madam Speaker, surrogate radios are not propaganda, they are the beaming of truth and ideas and news into censored societies, societies where those ideas from outside are not permitted. And under Radio Free Asia, the concepts of freedom, of democracy, of free enterprise, of the rule of law, of an independent judiciary, the very values that we as Americans believe in so deeply, are reaching their way today into closed societies in Asia.

The ideas of Jefferson and Lincoln, the ideas that cannot be heard there, the ideas of their own people in believing in these values are getting through, and this legislation will cause that to be ramped up 3 times what we are doing today, and will affect not only China, but Burma, Vietnam, Tibet, North Korea, Laos, places where autocratic regimes hold sway.

Madam Speaker, this is cost-effective legislation and \$40 million will provide for construction of new antennae and broadcasting facilities and the broadcasts themselves. Through Voice of America and Radio Free Asia, and let me say, Madam Speaker, that Voice of America is equally important in doing a marvelous job for this country all across this world. It is simply a different approach than the surrogate radios. Both are needed. We will be able to broadcast 24 hours a day in Mandarin, more broadcasts in Cantonese. This is exactly what we need to be doing.

Madam Speaker, 3 years ago myself and Helen Bentley conceived Radio Free Asia. Senator BIDEN picked up this matter over in the Senate and came aboard, and we passed legislation into law, and today Dick Richter and his very able staff are making a real difference in that part of the world.

The concept of beaming truth and uncensored news and information and ideas and values will change these closed societies, will make a difference in the lives of the Chinese people and the people of Burma and Vietnam and other places in Europe. They will do so at a much less cost than any other approach, and with tremendous effectiveness. I commend the gentleman from California [Mr. ROYCE]; I commend the gentleman from New York [Mr. GILMAN]; the gentleman from Indiana [Mr. HAMILTON]; the gentleman from Nebraska [Mr. BEREUTER]. All of them have provided tremendous leadership in making this happen.

This is extremely important legislation that will make a true difference in this world, and I commend it to all Members.

Mr. ROYCE. Madam Speaker, I yield 4 minutes to the distinguished gentleman from California [Mr. Cox], chairman of the Policy Committee, a colleague who has spearheaded the Policy for Freedom package.

Mr. COX of California. Madam Speaker, I would like to thank especially the gentleman from California [Mr. ROYCE]. I want to commend the sponsor of this vital bill, my colleague from California, the chairman of the Committee on International Relations Subcommittee on Africa, for his leading role in policymaking. Prior to his committee chairmanship on the Subcommittee on Africa, he was the vice chairman of the Subcommittee on Asia and the Pacific. He went with the Speaker of the House this year to the People's Republic of China, to Taiwan and to Hong Kong, and today, after literally years of work, he is bringing to us this bill which is rightly praised by his colleagues on both sides of the aisle.

Radio Free Asia builds on Justice Louis Brandeis' great axiom of civil liberties, that sunshine is the best disinfectant. That is what this is all about. That is what in fact makes our system so wonderfully resilient.

Driving to the Capitol on a recent day, listening to our local news radio station, WTOP, I heard no fewer than 3 separate China Moments, China Moments paid for by government-owned firms in the People's Republic of China. They lionized President Jiang Zemin. They hyped Communist rule in China. They propagandized in the best Madison Avenue style that money can buy, and I listened to it, because I am an American.

The Government of the People's Republic of China can talk directly to us as Americans whenever they wish to do so, through their own magazines, which they do in this country, through the Internet, through talking heads on television and via authentic, unbiased, competitive news media in our country. Information, not just in America, but in the world, is the oxygen of free-

dom, and at the same time, censorship is the staff of life for a dictatorship. The People's Republic of China's Government knows this full well, and as a result, control and suppression of information is of paramount priority for them.

The PRC's oligarchy controls all newspapers, all radio, all television, through suffocating direct ownership or, just as stifling, censorship and regulation. It controls informal flows of information through the pervasive use of wiretapping, informants and surveillance, and it is even building an infrastructure so that the state in the 21st century can control the Internet. It is now seeking to jam broadcasts of Radio Free Asia and the Voice of America, an issue that our leadership raised directly with President Jiang when he was here in the Capitol just days ago.

The bill of the gentleman from California [Mr. ROYCE] is going to allow 24-hour-a-day broadcasts of Radio Free Asia in Mandarin, Cantonese and Tibetan as well as broadcasting in other major dialects. It will allow the creation of a Cantonese Language Service with 16 journalists. I strongly commend this bill which will let sunlight shine into every corner of China.

When Jiang Zemin visited the United States of America, he went to visit the Liberty Bell, and he read the Biblical verse on the Liberty Bell that reads: "Proclaim liberty throughout the land unto all the inhabitants thereof." That is what Radio Free Asia will do in Communist China.

Let freedom ring across the length and breadth of China, Madam Speaker. Pass this bill.

Mr. HAMILTON. Madam Speaker, I yield back the balance of my time.

Mr. ROYCE. Madam Speaker, I want to thank our colleague, the gentleman from California [Mr. Cox] and his able staff, and I would like to thank the gentleman from Illinois [Mr. PORTER], who promoted Radio Free Asia over the years. A tremendous amount of work has gone into this effort. We have had a long and thorough debate throughout the last few days. There have been differences, but the Chinese people are yearning for information; not propaganda, but unbiased information, that is all. So I hope bolstering Radio Free Asia is something we can all support. This program has the opportunity to provide more than 1.4 billion, one-fourth of the world's population, with a daily dose of truth.

I would like to close my time by reading one last letter Radio Free Asia received from one of its Chinese listeners. "Congratulations on the first anniversary of your Mandarin broadcasts. I am one of your listeners writing to offer my thanks and congratulations. You have worked so hard and during this last year you have won some great victories. Here is hoping that your station in the future will

gain a foothold in Asia and the world, and not fear cruelty and inhumanity."

Madam Speaker, in closing, let me yield 3 minutes to my distinguished colleague, the gentlewoman from San Francisco, CA [Ms. PELOSI].

Ms. PELOSI. Madam Speaker, I thank the gentleman for yielding me this time. I intend to yield back so that he can close, because he has worked so hard on this issue. But I will take a little bit of the time, if I may.

I thank my colleague the gentleman from California [Mr. ROYCE] for his leadership in bringing this important bill to the floor. It is appropriate that this piece of legislation be the last in this series of China bills, because it is a banner issue that we treat the people in Asia, Radio Free Asia in Asia and in China the way we conducted our approach to people in Eastern Europe throughout the cold war.

The gentleman from California [Mr. Cox] was instrumental in putting a package together which had great consensus in this body. There were some of us who thought we could do more, but my colleague can prove us wrong by making these bills long, and then making these issues policy.

The leadership of the gentleman from California [Mr. Cox] and the gentleman from California [Mr. ROYCE] and the gentleman from New York [Mr. GILMAN] and others enabled us to call to the attention of our colleagues and to our country the concerns that we have about the United States-China relationship. Most certainly we believe in engagement, but it must be effective engagement, that instead of contributing to an increased trade deficit and proliferation of weapons of mass destruction with impunity and ignoring of the repression in China, instead, that effective engagement would make the world safer, the trade fairer, and people freer. And Radio Free Asia, the Radio Free Asia part of this package is further to the point of making people freer.

So many people have told us, and I know that my colleagues have addressed this, that in the course of the cold war their consolation was Radio Free Europe, that people in the outside world had not forgotten them, that we did respect their aspirations to live in a freer society. It was true then in Europe, it is true now for Asia, and we reject the notion that democratic freedoms and individual human rights are Western values. Indeed, they are universal values written on the hearts of men. The people in China who aspire for a freer China have quoted Thomas Jefferson, really quoted Thomas Jefferson. They have lived his words, not mocked them, as President Jiang did when he came here.

□ 1545

They have fought, risked their personal lives, the security of their families, and, indeed, their lives for principles that we as a country have advocated.

We say that promoting democratic values is a cornerstone of our foreign policy. If indeed it is in the world, it must be also in China. Radio Free Asia is the mechanism for us to give some encouragement to those who take such risks for freedom. Those people are the legitimate heirs of our Founding Fathers. For that reason, I commend my colleague for his leadership.

Mr. ROYCE. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, for the sake of freedom in China and throughout Asia, I urge my colleagues to support H.R. 2232, as amended, the Radio Free Asia Act of 1997.

Mr. KIM. Madam Speaker, I rise in strong support of H.R. 2232, a bill to authorize additional funds for Voice of America broadcasts in Chinese and Korean.

As a young boy growing up in Seoul during the Communist invasion, I can remember huddling around the radio with my family listening to these Voice of America broadcasts. In occupied Seoul, VOA was a prime source of news and inspiration in desperate times by providing timely and accurate news, unfiltered by our North Korean oppressors.

Today, North Korea is the most isolated, closed society in the world. The Communist regime maintains tight control of the dissemination of information within North Korea. Our VOA broadcasts are the people's lifeline to outside news and information, and otherwise available.

Several weeks ago, I had the opportunity to meet with two North Korean defectors who were visiting Washington. They told of how North Koreans—desperate for real news from the outside world—risk their lives to listen to VOA broadcasts. If found by North Korean authorities, they face certain execution on the spot. Yet thousands surround secret, miniature radios listening to our VOA broadcasts.

Madam Speaker, VOA broadcasts to China and North Korea provide those people with their primary source of accurate news and information about events in their country and around the world.

I urge my colleagues to support this bill.

Mrs. LINDA SMITH of Washington. Madam Speaker, I rise today in support of H.R. 2232, the Radio Free Asia Act authored by Congressman ED ROYCE. I believe this legislation is one of the most important pieces of the China package that the House of Representatives has been considering this week because it gives people hope. It is the most tangible way for the Chinese people to learn about the democratic rule of law, human rights, and current events around the world. It will also audibly demonstrate the aspirations of the American people to have a positive relationship with China as we enter the 21st century.

The Radio Free Asia Act is a direct counterpoint to the oppressive policies of the Chinese Government. The lack of a free flow of information within China makes it all the more im-

portant that the broadcasts of Voice of America and Radio Free Asia are heard loud and clear. While the government of China can stifle their own press and attempt to jam our broadcasts, by increasing the number of hours on the air as well as the variety of dialects, a message of hope and freedom will be heard by countless millions.

My colleague, Congressman FRANK WOLF, recently came back from a trip to Tibet and he reported that the broadcasts of Radio Free Asia were a great source of encouragement to the Tibetan population. The least that we can do is to ensure that these broadcasts continue by providing the necessary funds to sustain and increase these broadcasts.

I urge my colleagues to join me in passing the Radio Free Asia Act.

Mr. ROYCE. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. EMERSON). Pursuant to House Resolution 302, the previous question is ordered on the bill, as amended.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the yeas appeared to have it.

Mr. ROYCE. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5(b) of rule I, further proceedings on this matter are postponed.

**DESIGNATION OF THE HONORABLE  
CONSTANCE A. MORELLA TO ACT  
AS SPEAKER PRO TEMPORE TO  
SIGN ENROLLED BILLS AND  
JOINT RESOLUTIONS FOR RE-  
MAINDER OF FIRST SESSION OF  
105TH CONGRESS**

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,

November 9, 1997.

I hereby designate the Honorable CONSTANCE A. MORELLA to act as Speaker pro tempore to sign enrolled bills and joint resolutions for the remainder of the first session of the One Hundred Fifth Congress.

NEWT GINGRICH,

Speaker of the House of Representatives.

The SPEAKER pro tempore. Without objection, the designation is agreed to. There was no objection.

**COMMUNICATION FROM CHAIRMAN  
OF THE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE**

The Speaker pro tempore laid before the House the following communication from the chairman of the Committee on Transportation and Infrastructure; which was read and, without objection, referred to the Committee

on Appropriations and ordered to be printed.

Washington, DC, November 4, 1997.

HON. NEWT GINGRICH,  
Speaker, United States House of Representatives,  
Capitol Building, Washington, DC.

DEAR SPEAKER GINGRICH: On Wednesday, October 29, 1997, the Committee on Transportation and Infrastructure, pursuant to 40 U.S.C. §606, approved fifteen resolutions authorizing appropriations for federal buildings and leased space. Please find enclosed copies of these resolutions.

With warm regards, I remain,

Sincerely,

BUD SHUSTER,  
Chairman.

There was no objection.

**ANNOUNCEMENT BY THE SPEAKER  
PRO TEMPORE**

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that she will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken later today.

**VETERANS' BENEFITS ACT OF 1997**

Mr. STUMP. Madam Speaker, I move to suspend the rules and pass the Senate bill (S. 714) to extend and improve the Native American Veteran Housing Loan Pilot Program of the Department of Veterans Affairs, to extend certain authorities of the Secretary of Veterans Affairs relating to services for homeless veterans, to extend certain other authorities of the Secretary, and for other purposes, as amended.

The Clerk read as follows:

S. 714

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Veterans' Benefits Act of 1997".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.  
Sec. 2. References to title 38, United States Code.

**TITLE I—EQUAL EMPLOYMENT OPPORTUNITY PROCESS IN THE DEPARTMENT OF VETERANS AFFAIRS**

Sec. 101. Equal employment responsibilities.  
Sec. 102. Discrimination complaint adjudication authority.  
Sec. 103. Assessment and review of Department of Veterans Affairs employment discrimination complaint resolution system.

**TITLE II—EXTENSION AND IMPROVEMENT OF AUTHORITIES**

Sec. 201. Native American Veteran Housing Loan Program.  
Sec. 202. Treatment and rehabilitation for seriously mentally ill and homeless veterans.  
Sec. 203. Extension of certain authorities relating to homeless veterans.

- Sec. 204. Annual report on assistance to homeless veterans.
- Sec. 205. Expansion of authority for enhanced-use leases of Department of Veterans Affairs real property.
- Sec. 206. Permanent authority to furnish noninstitutional alternatives to nursing home care.
- Sec. 207. Extension of Health Professional Scholarship Program.
- Sec. 208. Policy on breast cancer mammography.
- Sec. 209. Persian Gulf War veterans.
- Sec. 210. Presidential report on preparations for a national response to medical emergencies arising from the terrorist use of weapons of mass destruction.

**TITLE III—MAJOR MEDICAL FACILITY PROJECTS CONSTRUCTION AUTHORIZATION**

- Sec. 301. Authorization of major medical facility projects.
- Sec. 302. Authorization of major medical facility leases.
- Sec. 303. Authorization of appropriations.
- TITLE IV—TECHNICAL AND CLARIFYING AMENDMENTS**
- Sec. 401. Technical amendments.
- Sec. 402. Clarification of certain health care authorities.
- Sec. 403. Correction of name of medical center.
- Sec. 404. Improvement to spina bifida benefits for children of Vietnam veterans.

**SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.**

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

**TITLE I—EQUAL EMPLOYMENT OPPORTUNITY PROCESS IN THE DEPARTMENT OF VETERANS AFFAIRS**

**SEC. 101. EQUAL EMPLOYMENT RESPONSIBILITIES.**

(a) IN GENERAL.—(1) Chapter 5 is amended by inserting at the end of subchapter I the following new section:

**“§ 516. Equal employment responsibilities**

“(a) The Secretary shall provide that the employment discrimination complaint resolution system within the Department be established and administered so as to encourage timely and fair resolution of concerns and complaints. The Secretary shall take steps to ensure that the system is administered in an objective, fair, and effective manner and in a manner that is perceived by employees and other interested parties as being objective, fair, and effective.

“(b) The Secretary shall provide—

“(1) that employees responsible for counseling functions associated with employment discrimination and for receiving, investigating, and processing complaints of employment discrimination shall be supervised in those functions by, and report to, an Assistant Secretary or a Deputy Assistant Secretary for complaint resolution management; and

“(2) that employees performing employment discrimination complaint resolution functions at a facility of the Department shall not be subject to the authority, direction, and control of the Director of the facility with respect to those functions.

“(c) The Secretary shall ensure that all employees of the Department receive adequate education and training for the purposes of this section and section 319 of this title.

“(d) The Secretary shall, when appropriate, impose disciplinary measures, as authorized by law, in the case of employees of the Department who engage in unlawful employment discrimination, including retaliation against an employee asserting rights under an equal employment opportunity law.

“(e)(1)(A) Not later than 30 days after the end of each calendar quarter, the Assistant Secretary for Human Resources and Administration shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report summarizing the employment discrimination complaints filed against the individuals referred to in paragraph (2) during such quarter.

“(B) Subparagraph (A) shall apply in the case of complaints filed against individuals on the basis of such individuals' personal conduct and shall not apply in the case of complaints filed solely on the basis of such individuals' positions as officials of the Department.

“(2) Paragraph (1) applies to the following officers and employees of the Department:

“(A) The Secretary.

“(B) The Deputy Secretary of Veterans Affairs.

“(C) The Under Secretary for Health and the Under Secretary for Benefits.

“(D) Each Assistant Secretary of Veterans Affairs and each Deputy Assistant Secretary of Veterans Affairs.

“(E) The Director of the National Cemetery System.

“(F) The General Counsel of the Department.

“(G) The Chairman of the Board of Veterans' Appeals.

“(H) The Chairman of the Board of Contract Appeals of the Department.

“(I) The director and the chief of staff of each medical center of the Department.

“(J) The director of each Veterans Integrated Services Network.

“(K) The director of each regional office of the Department.

“(L) Each program director of the Central Office of the Department.

“(3) Each report under this subsection—

“(A) may not disclose information which identifies the individuals filing, or the individuals who are the subject of, the complaints concerned or the facilities at which the discrimination identified in such complaints is alleged to have occurred;

“(B) shall summarize such complaints by type and by equal employment opportunity field office area in which filed; and

“(C) shall include copies of such complaints, with the information described in subparagraph (A) redacted.

“(4) Not later than April 1 each year, the Assistant Secretary shall submit to the committees referred to in paragraph (1)(A) a report on the complaints covered by paragraph (1) during the preceding year, including the number of such complaints filed during that year and the status and resolution of the investigation of such complaints.

“(f) The Secretary shall ensure that an employee of the Department who seeks counseling relating to employment discrimination may elect to receive such counseling from an employee of the Department who carries out equal employment opportunity counseling functions on a full-time basis rather than from an employee of the Department who carries out such functions on a part-time basis.

“(g) The number of employees of the Department whose duties include equal employment opportunity counseling functions as well as other, unrelated functions may not exceed 40 full-time equivalent employees. Any such employee may be assigned equal employment opportunity counseling functions only at Department facilities in remote geographic locations (as determined by the Secretary). The Secretary may waive the limitation in the preceding sentence in specific cases.

“(h) The provisions of this section shall be implemented in a manner consistent with procedures applicable under regulations prescribed by the Equal Employment Opportunity Commission.”

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 515 the following new item:

“516. Equal employment responsibilities.”

(b) REPORTS.—(1) The Secretary of Veterans Affairs shall submit to Congress reports on the implementation and operation of the equal employment opportunity system within the Department of Veterans Affairs. The first such report shall be submitted not later than April 1, 1998, and subsequent reports shall be submitted not later than January 1, 1999, and January 1, 2000.

(2) The first report under paragraph (1) shall set forth the actions taken by the Secretary to implement section 516 of title 38, United States Code, as added by subsection (a), and other actions taken by the Secretary in relation to the equal employment opportunity system within the Department of Veterans Affairs.

(3) The subsequent reports under paragraph (1) shall set forth, for each equal employment opportunity field office of the Department and for the Department as a whole, the following:

(A) Any information to supplement the information submitted in the report under paragraph (2) that the Secretary considers appropriate.

(B) The number of requests for counseling relating to employment discrimination received during the one-year period ending on the date of the report concerned.

(C) The number of employment discrimination complaints received during such period.

(D) The status of each complaint described in subparagraph (C), including whether or not the complaint was resolved and, if resolved, whether the employee concerned sought review of the resolution by the Equal Employment Opportunity Commission or by Federal court.

(E) The number of employment discrimination complaints that were settled during such period, including—

(i) the type of such complaints; and

(ii) the terms of settlement (including any settlement amount) of each such complaint.

(c) EFFECTIVE DATE.—Section 516 of title 38, United States Code, as added by subsection (a), shall take effect 90 days after the date of enactment of this Act. Subsection (e) of that section shall take effect with respect to the first quarter of calendar year 1998.

**SEC. 102. DISCRIMINATION COMPLAINT ADJUDICATION AUTHORITY.**

(a) IN GENERAL.—(1) Chapter 3 is amended by adding at the end the following new section:

**“§ 319. Office of Employment Discrimination Complaint Adjudication**

“(a)(1) There is in the Department an Office of Employment Discrimination Complaint Adjudication. There is at the head of the Office a Director.

"(2) The Director shall be a career appointee in the Senior Executive Service.

"(3) The Director reports directly to the Secretary or the Deputy Secretary concerning matters within the responsibility of the Office.

"(b)(1) The Director is responsible for making the final agency decision within the Department on the merits of any employment discrimination complaint filed by an employee, or an applicant for employment, with the Department. The Director shall make such decisions in an impartial and objective manner.

"(2) No person may make any ex parte communication to the Director or to any employee of the Office with respect to a matter on which the Director has responsibility for making a final agency decision.

"(c) Whenever the Director has reason to believe that there has been retaliation against an employee by reason of the employee asserting rights under an equal employment opportunity law, the Director shall report the suspected retaliatory action directly to the Secretary or Deputy Secretary, who shall take appropriate action thereon.

"(d)(1) The Office shall employ a sufficient number of attorneys and other personnel as are necessary to carry out the functions of the Office. Attorneys shall be compensated at a level commensurate with attorneys employed by the Office of the General Counsel.

"(2) The Secretary shall ensure that the Director is furnished sufficient resources in addition to personnel under paragraph (1) to enable the Director to carry out the functions of the Office in a timely manner.

"(3) The Secretary shall ensure that any performance appraisal of the Director of the Office of Employment Discrimination Complaint Adjudication or of any employee of the Office does not take into consideration the record of the Director or employee in deciding cases for or against the Department."

"(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"319. Office of Employment Discrimination Complaint Adjudication."

(b) **REPORTS ON IMPLEMENTATION.**—The Director of the Office of Employment Discrimination Complaint Adjudication of the Department of Veterans Affairs (established by section 319 of title 38, United States Code, as added by subsection (a)) shall submit to the Secretary of Veterans Affairs and to Congress reports on the implementation and the operation of that office. The first such report shall be submitted not later than April 1, 1998, and subsequent reports shall be submitted not later than January 1, 1999, and January 1, 2000.

(c) **EFFECTIVE DATE.**—Section 319 of title 38, United States Code, as added by subsection (a), shall take effect 90 days after the date of enactment of this Act.

**SEC. 103. ASSESSMENT AND REVIEW OF DEPARTMENT OF VETERANS AFFAIRS EMPLOYMENT DISCRIMINATION COMPLAINT RESOLUTION SYSTEM.**

(a) **AGREEMENT FOR ASSESSMENT AND REVIEW.**—(1) The Secretary of Veterans Affairs shall seek to enter into an agreement with a qualified private entity under which agreement the entity shall carry out the assessment described in subsection (b) and the review described in subsection (c).

(2) The Secretary shall include in the agreement provisions necessary to ensure that the entity carries out its responsibilities under the agreement (including the exercise of its judgments concerning the assessment and review) in a manner free of in-

fluence from any source, including the officials and employees of the Department of Veterans Affairs.

(3) The Secretary may not enter into the agreement until 15 days after the date on which the Secretary notifies the Committees on Veterans Affairs of the Senate and House of Representatives of the entity with which the Secretary proposes to enter into the agreement.

(b) **INITIAL ASSESSMENT OF SYSTEM.**—(1) Under the agreement under subsection (a), the entity shall conduct an assessment of the employment discrimination complaint resolution system administered within the Department of Veterans Affairs, including the extent to which the system meets the objectives set forth in section 516(a) of title 38, United States Code, as added by section 101. The assessment shall include a comprehensive description of the system as of the time of the assessment.

(2) Under the agreement, the entity shall submit the assessment to the committees referred to in subsection (a)(3) and to the Secretary not later than June 1, 1998.

(c) **REVIEW OF ADMINISTRATION OF SYSTEM.**—(1) Under the agreement under subsection (a), the entity shall monitor and review the administration by the Secretary of the employment discrimination complaint resolution system administered within the Department.

(2) Under the agreement, the entity shall submit to the committees referred to in subsection (a)(3) and to the Secretary a report on the results of the review under paragraph (1) not later than June 1, 1999. The report shall include an assessment of the administration of the system, including the extent to which the system meets the objectives referred to in subsection (b)(1), and the effectiveness of the following:

(A) Programs to train and maintain a cadre of individuals who are competent to investigate claims relating to employment discrimination.

(B) Programs to train and maintain a cadre of individuals who are competent to provide counseling to individuals who submit such claims.

(C) Programs to provide education and training to Department employees regarding their rights and obligations under the equal employment opportunity laws.

(D) Programs to oversee the administration of the system.

(E) Programs to evaluate the effectiveness of the system in meeting its objectives.

(F) Other programs, procedures, or activities of the Department relating to the equal employment opportunity laws, including any alternative dispute resolution procedures and informal dispute resolution and settlement procedures.

(G) Any disciplinary measures imposed by the Secretary on employees determined to have violated the equal employment opportunity laws in preventing or deterring violations of such laws by other employees of the Department.

**TITLE II—EXTENSION AND IMPROVEMENT OF AUTHORITIES**

**SEC. 201. NATIVE AMERICAN VETERAN HOUSING LOAN PROGRAM.**

(a) **EXTENSION OF PILOT PROGRAM.**—Section 3761(c) is amended by striking out "September 30, 1997" and inserting in lieu thereof "December 31, 2001".

(b) **OUTREACH.**—Section 3762(i) is amended—

(1) by inserting "(1)" after "(1)";

(2) by inserting ", in consultation with tribal organizations (including the National

Congress of American Indians and the National American Indian Housing Council)," after "The Secretary shall";

(3) by striking out "tribal organizations and"; and

(4) by adding at the end the following:  
"(2) Activities under the outreach program shall include the following:

"(A) Attending conferences and conventions conducted by the National Congress of American Indians in order to work with the National Congress in providing information and training to tribal organizations and Native American veterans regarding the availability of housing benefits under the pilot program and in assisting such organizations and veterans in participating in the pilot program.

"(B) Attending conferences and conventions conducted by the National American Indian Housing Council in order to work with the Housing Council in providing information and training to tribal organizations and tribal housing entities regarding the availability of such benefits.

"(C) Attending conferences and conventions conducted by the Department of Hawaiian Homelands in order to work with the Department of Hawaiian Homelands in providing information and training to tribal housing entities in Hawaii regarding the availability of such benefits.

"(D) Producing and disseminating information to tribal governments, tribal veterans service organizations, and tribal organizations regarding the availability of such benefits.

"(E) Assisting tribal organizations and Native American veterans in participating in the pilot program.

"(F) Outstationing loan guarantee specialists in tribal facilities on a part-time basis if requested by the tribal government."

(c) **ANNUAL REPORTS.**—Section 3762 is further amended by adding at the end the following new subsection:

"(j) Not later than February 1 of each year through 2002, the Secretary shall transmit to the Committees on Veterans Affairs of the Senate and House of Representatives a report relating to the implementation of the pilot program under this subchapter during the fiscal year preceding the date of the report. Each such report shall include the following:

"(1) The Secretary's exercise during such fiscal year of the authority provided under subsection (c)(1)(B) to make loans exceeding the maximum loan amount.

"(2) The appraisals performed for the Secretary during such fiscal year under the authority of subsection (d)(2), including a description of—

"(A) the manner in which such appraisals were performed;

"(B) the qualifications of the appraisers who performed such appraisals; and

"(C) the actions taken by the Secretary with respect to such appraisals to protect the interests of veterans and the United States.

"(3) The outreach activities undertaken under subsection (i) during such fiscal year, including—

"(A) a description of such activities on a region-by-region basis; and

"(B) an assessment of the effectiveness of such activities in encouraging the participation of Native American veterans in the pilot program.

"(4) The pool of Native American veterans who are eligible for participation in the pilot program, including—

"(A) a description and analysis of the pool, including income demographics;

“(B) a description and assessment of the impediments, if any, to full participation in the pilot program of the Native American veterans in the pool; and

“(C) the impact of low-cost housing programs operated by the Department of Housing and Urban Development and other Federal or State agencies on the demand for direct loans under this section.

“(5) The Secretary’s recommendations, if any, for additional legislation regarding the pilot program.”

**SEC. 202. TREATMENT AND REHABILITATION FOR SERIOUSLY MENTALLY ILL AND HOMELESS VETERANS.**

(a) CODIFICATION AND REVISION OF PROGRAMS.—Chapter 17 is amended by adding at the end the following new subchapter:

**“SUBCHAPTER VII—TREATMENT AND REHABILITATION FOR SERIOUSLY MENTALLY ILL AND HOMELESS VETERANS**

**“§ 1771. General treatment**

“(a) In providing care and services under section 1710 of this title to veterans suffering from serious mental illness, including veterans who are homeless, the Secretary may provide (directly or in conjunction with a governmental or other entity)—

“(1) outreach services;

“(2) care, treatment, and rehabilitative services (directly or by contract in community-based treatment facilities, including halfway houses); and

“(3) therapeutic transitional housing assistance under section 1772 of this title, in conjunction with work therapy under subsection (a) or (b) of section 1718 of this title and outpatient care.

“(b) The authority of the Secretary under subsection (a) expires on December 31, 2001.

**“§ 1772. Therapeutic housing**

“(a) The Secretary, in connection with the conduct of compensated work therapy programs, may operate residences and facilities as therapeutic housing.

“(b) The Secretary may use such procurement procedures for the purchase, lease, or other acquisition of residential housing for purposes of this section as the Secretary considers appropriate to expedite the opening and operation of transitional housing and to protect the interests of the United States.

“(c) A residence or other facility may be operated as transitional housing for veterans described in paragraphs (1) and (2) of section 1710(a) of this title under the following conditions:

“(1) Only veterans described in those paragraphs and a house manager may reside in the residence or facility.

“(2) Each resident, other than the house manager, shall be required to make payments that contribute to covering the expenses of board and the operational costs of the residence or facility for the period of residence in such housing.

“(3) In order to foster the therapeutic and rehabilitative objectives of such housing (A) residents shall be prohibited from using alcohol or any controlled substance or item, (B) any resident violating that prohibition may be expelled from the residence or facility, and (C) each resident shall agree to undergo drug testing or such other measures as the Secretary shall prescribe to ensure compliance with that prohibition.

“(4) In the establishment and operation of housing under this section, the Secretary shall consult with appropriate representatives of the community in which the housing is established and shall comply with zoning

requirements, building permit requirements, and other similar requirements applicable to other real property used for similar purposes in the community.

“(5) The residence or facility shall meet State and community fire and safety requirements applicable to other real property used for similar purposes in the community in which the transitional housing is located, but fire and safety requirements applicable to buildings of the Federal Government shall not apply to such property.

“(d) The Secretary shall prescribe the qualifications for house managers for transitional housing units operated under this section. The Secretary may provide for free room and subsistence for a house manager in addition to, or instead of payment of, a fee for the services provided by the manager.

“(e)(1) The Secretary may operate as transitional housing under this section—

“(A) any suitable residential property acquired by the Secretary as the result of a default on a loan made, guaranteed, or insured under chapter 37 of this title;

“(B) any suitable space in a facility under the jurisdiction of the Secretary that is no longer being used (i) to provide acute hospital care, or (ii) as housing for medical center employees; and

“(C) any other suitable residential property purchased, leased, or otherwise acquired by the Secretary.

“(2) In the case of any property referred to in paragraph (1)(A), the Secretary shall—

“(A) transfer administrative jurisdiction over such property within the Department from the Veterans Benefits Administration to the Veterans Health Administration; and

“(B) transfer from the General Post Fund to the Loan Guaranty Revolving Fund under chapter 37 of this title an amount (not to exceed the amount the Secretary paid for the property) representing the amount the Secretary considers could be obtained by sale of such property to a nonprofit organization or a State for use as a shelter for homeless veterans.

“(3) In the case of any residential property obtained by the Secretary from the Department of Housing and Urban Development under this section, the amount paid by the Secretary to that Department for that property may not exceed the amount that the Secretary of Housing and Urban Development would charge for the sale of that property to a nonprofit organization or a State for use as a shelter for homeless persons. Funds for such charge shall be derived from the General Post Fund.

“(f) The Secretary shall prescribe—

“(1) a procedure for establishing reasonable payment rates for persons residing in transitional housing; and

“(2) appropriate limits on the period for which such persons may reside in transitional housing.

“(g) The Secretary may dispose of any property acquired for the purpose of this section. The proceeds of any such disposal shall be credited to the General Post Fund.

“(h) Funds received by the Department under this section shall be deposited in the General Post Fund. The Secretary may distribute out of the fund such amounts as necessary for the acquisition, management, maintenance, and disposition of real property for the purpose of carrying out such program. The Secretary shall manage the operation of this section so as to ensure that expenditures under this subsection for any fiscal year shall not exceed by more than \$500,000 proceeds credited to the General Post Fund under this section. The operation

of the program and funds received shall be separately accounted for, and shall be stated in the documents accompanying the President’s budget for each fiscal year.

**“§ 1773. Additional services at certain locations**

“(a) Subject to the availability of appropriations, the Secretary shall operate a program under this section to expand and improve the provision of benefits and services by the Department to homeless veterans.

“(b) The program shall include the establishment of not fewer than eight programs (in addition to any existing programs providing similar services) at sites under the jurisdiction of the Secretary to be centers for the provision of comprehensive services to homeless veterans. The services to be provided at each site shall include a comprehensive and coordinated array of those specialized services which may be provided under existing law.

“(c) The program shall include the services of such employees of the Veterans Benefits Administration as the Secretary determines appropriate at sites under the jurisdiction of the Secretary at which services are provided to homeless veterans.

“(d) The program under this section shall terminate on December 31, 2001.

**“§ 1774. Coordination with other agencies and organizations**

“(a) In assisting homeless veterans, the Secretary shall coordinate with, and may provide services authorized under this title in conjunction with, State and local governments, other appropriate departments and agencies of the Federal Government, and nongovernmental organizations.

“(b)(1) The Secretary shall require the director of each medical center or the director of each regional benefits office to make an assessment of the needs of homeless veterans living within the area served by the medical center or regional office, as the case may be.

“(2) Each such assessment shall be made in coordination with representatives of State and local governments, other appropriate departments and agencies of the Federal Government, and nongovernmental organizations that have experience working with homeless persons in that area.

“(3) Each such assessment shall identify the needs of homeless veterans with respect to the following:

- “(A) Health care.
- “(B) Education and training.
- “(C) Employment.
- “(D) Shelter.
- “(E) Counseling.
- “(F) Outreach services.

“(4) Each assessment shall also indicate the extent to which the needs referred to in paragraph (3) are being met adequately by the programs of the Department, of other departments and agencies of the Federal Government, of State and local governments, and of nongovernmental organizations.

“(5) Each assessment shall be carried out in accordance with uniform procedures and guidelines prescribed by the Secretary.

“(c) In furtherance of subsection (a), the Secretary shall require the director of each medical center and the director of each regional benefits office, in coordination with representatives of State and local governments, other Federal officials, and nongovernmental organizations that have experience working with homeless persons in the areas served by such facility or office, to—

“(1) develop a list of all public and private programs that provide assistance to homeless persons or homeless veterans in the area

concerned, together with a description of the services offered by those programs;

"(2) seek to encourage the development by the representatives of such entities, in coordination with the director, of a plan to coordinate among such public and private programs the provision of services to homeless veterans;

"(3) take appropriate action to meet, to the maximum extent practicable through existing programs and available resources, the needs of homeless veterans that are identified in the assessment conducted under subsection (b); and

"(4) attempt to inform homeless veterans whose needs the director cannot meet under paragraph (3) of the services available to such veterans within the area served by such center or office."

(b) CONFORMING AMENDMENTS.—(1) Section 1720A is amended—

(A) by striking out subsections (a), (e), (f), and (g); and

(B) by redesignating subsections (b), (c), and (d) as subsections (a), (b), and (c), respectively.

(2) The heading of such section is amended to read as follows:

**"§ 1720A. Treatment and rehabilitative services for persons with drug or alcohol dependency."**

(c) CONFORMING REPEALS.—The following provisions are repealed:

(1) Section 7 of Public Law 102-54 (38 U.S.C. 1718 note).

(2) Section 107 of the Veterans' Medical Programs Amendments of 1992 (38 U.S.C. 527 note).

(3) Section 2 of the Homeless Veterans Comprehensive Service Programs Act of 1992 (38 U.S.C. 7721 note).

(4) Section 115 of the Veterans' Benefits and Services Act of 1988 (38 U.S.C. 1712 note).

(d) CLERICAL AMENDMENTS.—The table of sections at the beginning of chapter 17 is amended—

(1) by striking out the item relating to section 1720A and inserting in lieu thereof the following:

"1720A. Treatment and rehabilitative services for persons with drug or alcohol dependency."; and

(2) by adding at the end the following:

"SUBCHAPTER VII—TREATMENT AND REHABILITATION FOR SERIOUSLY MENTALLY ILL AND HOMELESS VETERANS

"1771. General treatment.

"1772. Therapeutic housing.

"1773. Additional services at certain locations.

"1774. Coordination with other agencies and organizations."

**SEC. 203. EXTENSION OF CERTAIN AUTHORITIES RELATING TO HOMELESS VETERANS.**

(a) AGREEMENTS FOR HOUSING ASSISTANCE FOR HOMELESS VETERANS.—Section 3735(c) is amended by striking out "December 31, 1997" and inserting in lieu thereof "December 31, 1999".

(b) EXTENSION OF HOMELESS VETERANS COMPREHENSIVE SERVICE GRANT PROGRAM.—Section 3(a)(2) of the Homeless Veterans Comprehensive Service Programs Act of 1992 (38 U.S.C. 7721 note) is amended by striking out "September 30, 1997" and inserting in lieu thereof "September 30, 1999".

(c) HOMELESS VETERANS' REINTEGRATION PROJECTS.—The Stewart B. McKinney Homeless Assistance Act is amended as follows:

(1) Section 738(e)(1) (42 U.S.C. 11448(e)(1)) is amended by adding at the end the following new subparagraph:

"(G) \$10,000,000 for fiscal year 1999."

(2) Section 741 (42 U.S.C. 11450) is amended by striking out "December 31, 1997" and inserting in lieu thereof "December 31, 1999".

**SEC. 204. ANNUAL REPORT ON ASSISTANCE TO HOMELESS VETERANS.**

Section 1001 of the Veterans' Benefits Improvements Act of 1994 (38 U.S.C. 7721 note) is amended—

(1) in subsection (a)(2)—

(A) by striking out "and" at the end of subparagraph (B);

(B) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; and"; and

(C) by adding at the end the following new subparagraphs:

"(D) evaluate the effectiveness of the programs of the Department (including residential work-therapy programs, programs combining outreach, community-based residential treatment, and case-management, and contract care programs for alcohol and drug-dependence or abuse disabilities) in providing assistance to homeless veterans; and

"(E) evaluate the effectiveness of programs established by recipients of grants under section 3 of the Homeless Veterans Comprehensive Service Programs Act of 1992 (38 U.S.C. 7721 note), and describe the experience of such recipients in applying for and receiving grants from the Secretary of Housing and Urban Development to serve primarily homeless persons who are veterans."; and

(2) by striking out subsection (b).

**SEC. 205. EXPANSION OF AUTHORITY FOR ENHANCED-USE LEASES OF DEPARTMENT OF VETERANS AFFAIRS REAL PROPERTY.**

(a) FOUR-YEAR EXTENSION OF AUTHORITY.—Section 8169 is amended by striking out "December 31, 1997" and inserting in lieu thereof "December 31, 2001".

(b) REPEAL OF LIMITATION ON NUMBER OF AGREEMENTS.—(1) Section 8168 is repealed.

(2) The table of sections at the beginning of chapter 81 is amended by striking out the item relating to section 8168.

**SEC. 206. PERMANENT AUTHORITY TO FURNISH NONINSTITUTIONAL ALTERNATIVES TO NURSING HOME CARE.**

(a) PERMANENT AUTHORITY.—Subsection (a) of section 1720C is amended by striking out "During" and all that follows through "furnishing of" and inserting in lieu thereof "The Secretary may furnish".

(b) CONFORMING AMENDMENTS.—(1) Subsections (b)(1) and (d) of such section are amended by striking out "pilot".

(2) The heading for such section is amended to read as follows:

**"§ 1720C. Noninstitutional alternatives to nursing home care."**

(3) The item relating to such section in the table of sections at the beginning of chapter 17 is amended to read as follows:

"1720C. Noninstitutional alternatives to nursing home care."

**SEC. 207. EXTENSION OF HEALTH PROFESSIONAL SCHOLARSHIP PROGRAM.**

(a) EXTENSION.—Section 7618 is amended by striking out "December 31, 1997" and inserting in lieu thereof "December 31, 1998".

(b) SUBMISSION OF OVERDUE REPORT.—The Secretary of Veterans Affairs shall submit to Congress not later than 180 days after the date of the enactment of this Act the report evaluating the operation of the health professional scholarship program required to be submitted not later than March 31, 1997, under section 202(b) of Public Law 104-110 (110 Stat. 770).

**SEC. 208. POLICY ON BREAST CANCER MAMMOGRAPHY.**

(a) IN GENERAL.—(1) Subchapter II of chapter 73 is amended by adding at the end the following new section:

**"§ 7322. Breast cancer mammography policy"**

"(a) The Under Secretary for Health shall develop a national policy for the Veterans Health Administration on mammography screening for veterans.

"(b) The policy developed under subsection (a) shall—

"(1) specify standards of mammography screening;

"(2) provide recommendations with respect to screening, and the frequency of screening, for—

"(A) women veterans who are over the age of 39; and

"(B) veterans, without regard to age, who have clinical symptoms, risk factors, or family history of breast cancer; and

"(3) provide for clinician discretion."

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 7321 the following new item:

"7322. Breast cancer mammography policy."

(b) EFFECTIVE DATE.—The Secretary of Veterans Affairs shall develop the national policy on mammography screening required by section 7322 of title 38, United States Code, as added by subsection (a), and shall furnish such policy in a report to the Committees on Veterans' Affairs of the Senate and House of Representatives, not later than 60 days after the date of the enactment of this Act. Such policy shall not take effect before the expiration of 30 days after the date of its submission to those committees.

(c) SENSE OF CONGRESS.—It is the sense of Congress that the policy developed under section 7322 of title 38, United States Code, as added by subsection (a), shall be in accordance with the guidelines endorsed by the Secretary of Health and Human Services and the Director of the National Institutes of Health.

**SEC. 209. PERSIAN GULF WAR VETERANS.**

(a) CRITERIA FOR PRIORITY HEALTH CARE.—(1) Subsection (a)(2)(F) of section 1710 is amended by striking out "environmental hazard" and inserting in lieu thereof "other conditions".

(2) Subsection (e)(1)(C) of such section is amended—

(A) by striking out "the Secretary finds may have been exposed while serving" and inserting in lieu thereof "served";

(B) by striking out "to a toxic substance or environmental hazard"; and

(C) by striking out "exposure" and inserting in lieu thereof "service".

(3) Subsection (e)(2)(B) of such section is amended by striking out "an exposure" and inserting in lieu thereof "the service".

(b) DEMONSTRATION PROJECTS FOR TREATMENT OF PERSIAN GULF ILLNESS.—(1) The Secretary of Veterans Affairs shall carry out a program of demonstration projects to test new approaches to treating, and improving the satisfaction with such treatment of, Persian Gulf veterans who suffer from undiagnosed and ill-defined disabilities. The program shall be established not later than July 1, 1998, and shall be carried out at up to 10 geographically dispersed medical centers of the Department of Veterans Affairs.

(2) At least one of each of the following models shall be used at no less than two of the demonstration projects:

(A) A specialized clinic which serves Persian Gulf veterans.

(B) Multidisciplinary treatment aimed at managing symptoms.

(C) Use of case managers.

(3) A demonstration project under this subsection may be undertaken in conjunction with another funding entity, including agreements under section 8111 of title 38, United States Code.

(4) The Secretary shall make available from appropriated funds (which have been retained for contingent funding) \$5,000,000 to carry out the demonstrations projects.

(5) The Secretary may not approve a medical center as a location for a demonstration project under this subsection unless a peer review panel has determined that the proposal submitted by that medical center is among those proposals that have met the highest competitive standards of clinical merit and the Secretary has determined that the facility has the ability to—

(A) attract the participation of clinicians of outstanding caliber and innovation to the project; and

(B) effectively evaluate the activities of the project.

(6) In determining which medical centers to select as locations for demonstration projects under this subsection, the Secretary shall give special priority to medical centers that have demonstrated a capability to compete successfully for extramural funding support for research into the effectiveness and cost-effectiveness of the care provided under the demonstration project.

**SEC. 210. PRESIDENTIAL REPORT ON PREPARATIONS FOR A NATIONAL RESPONSE TO MEDICAL EMERGENCIES ARISING FROM THE TERRORIST USE OF WEAPONS OF MASS DESTRUCTION.**

(a) REPORT.—(1) Not later than March 1, 1998, the President shall submit to Congress a report on the plans, preparations, and capability of the Federal Government and State and local governments for a national response to medical emergencies arising from the terrorist use of weapons of mass destruction. The report shall be submitted in unclassified form, but may include a classified annex.

(2) The report should be prepared in consultation with the Secretary of Defense, the Secretary of Health and Human Services, the Secretary of Veterans Affairs, the Director of the Federal Emergency Management Agency, and the head of any other department or agency of the Federal Government that may be involved in responding to such emergencies. The President shall designate a lead agency for purposes of the preparation of the report.

(b) CONTENTS.—The report shall include the following:

(1) A description of the steps taken by the Federal Government to plan and prepare for a national response to medical emergencies arising from the terrorist use of weapons of mass destruction.

(2) A description of the laws and agreements governing the responsibilities of the various departments and agencies of the Federal Government, and of State and local governments, for the response to such emergencies, and an assessment of the interrelationship of such responsibilities under such laws and agreements.

(3) Recommendations, if any, for the simplification or improvement of such responsibilities.

(4) An assessment of the current level of preparedness for such response of all departments and agencies of the Federal Government and State and local governments that are responsible for such response.

(5) A current inventory of the existing medical assets from all sources which can be made available for such response.

(6) Recommendations, if any, for the improved or enhanced use of the resources of the Federal Government and State and local governments for such response.

(7) The name of the official or office of the Federal Government designated to coordinate the response of the Federal Government to such emergencies.

(8) A description of the lines of authority between the departments and agencies of the Federal Government to be involved in the response of the Federal Government to such emergencies.

(9) A description of the roles of each department and agency of the Federal Government to be involved in the preparations for, and implementation of, the response of the Federal Government to such emergencies.

(10) The estimated costs of each department and agency of the Federal Government to prepare for and carry out its role as described under paragraph (9).

(11) A description of the steps, if any, being taken to create a funding mechanism for the response of the Federal Government to such emergencies.

**TITLE III—MAJOR MEDICAL FACILITY PROJECTS CONSTRUCTION AUTHORIZATION**

**SEC. 301. AUTHORIZATION OF MAJOR MEDICAL FACILITY PROJECTS.**

The Secretary of Veterans Affairs may carry out the following major medical facility projects, with each project to be carried out in the amount specified for that project:

(1) Seismic corrections at the Department of Veterans Affairs medical center in Memphis, Tennessee, in an amount not to exceed \$34,600,000.

(2) Seismic corrections and clinical and other improvements to the McClellan Hospital at Mather Field, Sacramento, California, in an amount not to exceed \$48,000,000, to be derived only from funds appropriated for Construction, Major Projects, for a fiscal year before fiscal year 1998 that remain available for obligation.

(3) Outpatient improvements at Mare Island, Vallejo, California, and Martinez, California, in a total amount not to exceed \$7,000,000, to be derived only from funds appropriated for Construction, Major Projects, for a fiscal year before fiscal year 1998 that remain available for obligation.

**SEC. 302. AUTHORIZATION OF MAJOR MEDICAL FACILITY LEASES.**

The Secretary of Veterans Affairs may enter into leases for medical facilities as follows:

(1) Lease of an information management field office, Birmingham, Alabama, in an amount not to exceed \$595,000.

(2) Lease of a satellite outpatient clinic, Jacksonville, Florida, in an amount not to exceed \$3,095,000.

(3) Lease of a satellite outpatient clinic, Boston, Massachusetts, in an amount not to exceed \$5,215,000.

(4) Lease of a satellite outpatient clinic, Canton, Ohio, in an amount not to exceed \$2,115,000.

(5) Lease of a satellite outpatient clinic, Portland, Oregon, in an amount not to exceed \$1,919,000.

(6) Lease of a satellite outpatient clinic, Tulsa, Oklahoma, in an amount not to exceed \$2,112,000.

(7) Lease of an information resources management field office, Salt Lake City, in an amount not to exceed \$652,000.

**SEC. 303. AUTHORIZATION OF APPROPRIATIONS.**

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary of Veterans Affairs for fiscal year 1998—

(1) for the Construction, Major Projects, account, \$34,600,000 for the project authorized in section 301(1); and

(2) for the Medical Care account, \$15,703,000 for the leases authorized in section 302.

(b) LIMITATION.—The projects authorized in section 301 may only be carried out using—

(1) funds appropriated for fiscal year 1998 pursuant to the authorization of appropriations in subsection (a);

(2) funds appropriated for Construction, Major Projects for a fiscal year before fiscal year 1998 that remain available for obligation; and

(3) funds appropriated for Construction, Major Projects for fiscal year 1998 for a category of activity not specific to a project.

**TITLE IV—TECHNICAL AND CLARIFYING AMENDMENTS**

**SEC. 401. TECHNICAL AMENDMENTS.**

(a) PLOT ALLOWANCE FOR DEATHS IN DEPARTMENT FACILITIES.—Section 2303(a)(2)(A) is amended by striking out “a Department facility (as defined in section 1701(4) of this title)” and inserting in lieu thereof “a facility of the Department (as defined in section 1701(3) of this title)”.

(b) EDUCATIONAL ASSISTANCE ALLOWANCE FOR CERTAIN INDIVIDUALS PURSUING COOPERATIVE PROGRAMS.—Section 3015(e)(1) is amended—

(1) by striking out “(1) Subject to paragraph (2)” and inserting in lieu thereof “(1)(A) Except as provided in subparagraph (B) of this paragraph and subject to paragraph (2)”;

(2) by adding at the end the following:

“(B) Notwithstanding subparagraph (A) of this paragraph, in the case of an individual described in that subparagraph who is pursuing a cooperative program on or after October 9, 1996, the rate of the basic educational assistance allowance applicable to such individual under this chapter shall be increased by the amount equal to one-half of the educational assistance allowance that would be applicable to such individual for pursuit of full-time institutional training under chapter 34 (as of the time the assistance under this chapter is provided and based on the rates in effect on December 31, 1989) if such chapter were in effect.”.

(c) ELIGIBILITY OF CERTAIN VEAP PARTICIPANTS TO ENROLL IN MONTGOMERY GI BILL.—Section 3018C(a) is amended—

(1) in paragraph (1), by striking out “the date of the enactment of the Veterans’ Benefits Improvements Act of 1996” and inserting in lieu thereof “October 9, 1996,”;

(2) in paragraph (4), by striking out “during the one-year period specified” and inserting in lieu thereof “after the date on which the individual makes the election described”;

(3) in paragraph (5), by striking out “the date of the enactment of the Veterans’ Benefits Improvements Act of 1996” and inserting in lieu thereof “October 9, 1996”.

(d) ENROLLMENT IN OPEN CIRCUIT TELEVISION COURSES.—Section 3680A(a)(4) is amended by inserting “(including open circuit television)” after “independent study program” the second place it appears.

(e) ENROLLMENT IN CERTAIN COURSES.—Section 3680A(g) is amended by striking out “subsections (e) and (f)” and inserting in lieu thereof “subsections (e) and (f)(1)”.

(f) CERTAIN BENEFITS FOR SURVIVING SPOUSES.—Section 5310(b)(2) is amended by striking out “under this paragraph” in the

first sentence and inserting in lieu thereof "under paragraph (1)".

**SEC. 402. CLARIFICATION OF CERTAIN HEALTH CARE AUTHORITIES.**

(a) **ELIGIBILITY FOR HOSPITAL CARE AND MEDICAL SERVICES.**—Section 1710(a)(2)(B) is amended by striking out "compensable".

(b) **HOME HEALTH SERVICES.**—Section 1717(a) is amended—

(1) in paragraph (1), by striking out "veteran's disability" and inserting in lieu thereof "veteran"; and

(2) in paragraph (2)(B), by striking out "section 1710(a)(2)" and inserting in lieu thereof "section 1710(a)".

(c) **AUTHORITY TO TRANSFER VETERANS RECEIVING OUTPATIENT CARE TO NON-DEPARTMENT NURSING HOMES.**—Section 1720(a)(1)(A)(i) is amended by striking out "hospital care, nursing home care, or domiciliary care" and inserting in lieu thereof "care".

(d) **ACQUISITION OF COMMERCIAL HEALTH CARE RESOURCES.**—Section 8153(a)(3)(A) is amended by inserting "(including any Executive order, circular, or other administrative policy)" after "law or regulation".

(e) **COMPETITION IN PROCUREMENT OF COMMERCIAL HEALTH CARE RESOURCES.**—Section 8153(a)(3)(B)(ii) is amended in the second sentence by inserting ", as appropriate," after "all responsible sources".

**SEC. 403. CORRECTION OF NAME OF MEDICAL CENTER.**

The facility of the Department of Veterans Affairs in Columbia, South Carolina, known as the Wm. Jennings Bryan Dorn Veterans' Hospital shall hereafter be known and designated as the "Wm. Jennings Bryan Dorn Department of Veterans Affairs Medical Center". Any reference to that facility in any law, regulation, document, map, record, or other paper of the United States shall be deemed to be a reference to the Wm. Jennings Bryan Dorn Department of Veterans Affairs Medical Center.

**SEC. 404. IMPROVEMENT TO SPINA BIFIDA BENEFITS FOR CHILDREN OF VIETNAM VETERANS.**

(a) **DEFINITIONS.**—The text of section 1801 is amended to read as follows:

"For the purposes of this chapter—

"(1) The term 'child', with respect to a Vietnam veteran, means a natural child of a Vietnam veteran, regardless of age or marital status, who was conceived after the date on which the Vietnam veteran first entered the Republic of Vietnam during the period beginning on January 9, 1962, and ending on May 7, 1975.

"(2) The term 'Vietnam veteran' means an individual who performed active military, naval, or air service in the Republic of Vietnam during the period beginning on January 9, 1962, and ending on May 7, 1975, without regard to the characterization of the individual's service."

(b) **APPLICABILITY OF CERTAIN ADMINISTRATIVE PROVISIONS.**—(1) Section 1806 is amended to read as follows:

**"§ 1806. Applicability of certain administrative provisions**

"The provisions of sections 5101(c), 5110(a), (b)(2), (g), and (i), 5111, and 5112(a), (b)(1), (b)(6), (b)(9), and (b)(10) of this title shall be deemed to apply to benefits under this chapter in the same manner in which they apply to veterans' disability compensation."

(2) The item relating to section 1806 in the table of sections at the beginning of chapter 18 is amended to read as follows:

"1806. Applicability of certain administrative provisions."

**(c) AMENDMENTS TO VOCATIONAL REHABILITATION PROVISIONS.**—Section 1804 is amended—

(1) in subsection (b), by striking out "shall be designed" and all that follows and inserting in lieu thereof the following: "shall—

"(1) be designed in consultation with the child in order to meet the child's individual needs;

"(2) be set forth in an individualized written plan of vocational rehabilitation; and

"(3) be designed and developed before the date specified in subsection (d)(3) so as to permit the beginning of the program as of the date specified in that subsection.";

(2) in subsection (c)(1)(B), by striking out "institution of higher education" and inserting in lieu thereof "institution of higher learning"; and

(3) by adding at the end of subsection (d) the following new paragraph:

"(3) A vocational training program under this section may begin on the child's 18th birthday, or on the successful completion of the child's secondary schooling, whichever first occurs, except that, if the child is above the age of compulsory school attendance under applicable State law and the Secretary determines that the child's best interests will be served thereby, the vocational training program may begin before the child's 18th birthday."

(d) **EFFECTIVE DATE.**—The amendments made by this section shall take effect as of October 1, 1997.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Arizona [Mr. STUMP] and the gentleman from Illinois [Mr. EVANS] each will control 20 minutes.

The Chair recognizes the gentleman from Arizona [Mr. STUMP].

**GENERAL LEAVE**

Mr. STUMP. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on S. 714, the Senate bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. STUMP. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, the House amendments to S. 714 represent a compromise between the House and Senate veterans' affairs committees on several measures considered by both sides this year. It requires the VA to develop new treatment programs for Persian Gulf war veterans, and clarifies that any Persian war veteran with an illness that could be due to service in the gulf is eligible for VA care.

The bill extends and streamlines laws under which the VA provides cares to homeless veterans and veterans who suffer from chronic mental illness. The bill authorizes funds for major medical facility projects, including funds to carry out seismic corrections projects at two VA medical centers.

The bill also creates a new process for resolving complaints of sexual harassment and employment discrimination at the VA. This process will be

independent and free from undue influence from VA managers.

Madam Speaker, I reserve the balance of my time.

Mr. EVANS. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in support of S. 714, as amended. Madam Speaker, this agreement includes provisions to clarify, extend, and enhance measures to address homelessness among this Nation's veterans. The provisions before us today will allow the VA to continue to offer a range of programs to homeless veterans. Together these programs comprise a comprehensive increase that meets veterans' needs for health care, substance abuse treatment, vocational rehab work, and shelter. In addition, this measure extends the homeless veterans reintegration project administered by the Department of Labor and authorizes \$10 million for this important program for fiscal year 1999.

This measure also permanently authorizes the VA to provide noninstitutional long-term care programs. Many veterans want to live at home as long as possible. Good noninstitutional programs can make this a reality. Under this authority the VA can provide cost-effective programs like home care, home aides, and adult day care to more veterans.

An important change in the eligibility of VA health care for the Persian Gulf veterans is included in this measure. Eligibility will now be based on a veteran's service, rather than actual exposure to a specific agent or environmental hazard.

Authority is also provided for the VA to create 10 model Persian Gulf veterans' treatment programs. Seven years has been too long to wait to meet the health care needs of our Persian Gulf veterans. I encourage the VA to develop centers of excellence and innovation for treatment of Persian Gulf symptoms related to their exposure.

The measure also requires the VA to establish a strong and comprehensive policy for mammography screening. The policy will specifically address women veterans over the age of 39 and any other veterans with clinical symptoms or risk factors that will allow physicians and patients to decide how long screening is necessary.

Two clarifying amendments are also included that should be mentioned. The first would clarify that children of Vietnam veterans who are born with spina bifida are eligible for the programs provided by the VA for such children, regardless of the character of the discharge of the child's Vietnam veteran parent. Additionally, the VA is to develop a child's vocational training program prior to the child's eligibility to begin participation in that program.

This measure also extends for 4 years the authority provided in the Native American Veterans Housing Loan Pilot

Program. This important program provides direct loans to Native American veterans who reside on trust lands to build or purchase homes on those lands.

I am pleased that the Department of Veterans Affairs Employment Discrimination Prevention Act of 1997 is included in this bill. This is timely, and important legislation to reform the equal employment opportunity process at the VA is long overdue. By removing the EEO process from the facility where the discrimination allegedly occurred, this bill limits the ability of heavy-handed facility directors to unfairly influence the process in a discrimination complaint by requiring that such complaints be handled mostly by full-time, well-trained investigators at the regional EEO field office level. This bill brings greater independence and professionalism to the process.

By removing the final decision-making process from the VA's Office of General Counsel, this bill eliminates the obvious conflict of interest that exists today, when the General Counsel's Office is expected to be an advocate for the Department on one hand, and to decide the merits of a complaint against the Department on another hand.

Madam Speaker, I do want to thank the gentleman from Arizona, the chairman of the committee, for his continuing efforts on behalf of our Nation's veterans. This is the end of our first year of working together with the gentleman from Arizona [Chairman STUMP], and we have had a great experience dealing with him, and but also with his subcommittee chairs, CLIFF STEARNS, JACK QUINN and TERRY EVERETT. I thank them for work on behalf of our Nation's veterans.

I want to thank my equivalent subcommittee ranking members, the gentleman from Illinois, [LUIS GUTIERREZ], the gentleman from California, [BOB FILNER], and the gentleman from South Carolina, [JAMES CLYBURN], for their excellent commitment to our veterans.

Madam Speaker, I rise in support of S. 714, as amended. As amended, S. 714 contains provisions of major importance to our Nation's veterans. It deserves the support of every Member of the House.

A number of the provisions in the measure now before us have already been approved by the House in legislation reported earlier this year by the Committee on Veterans' Affairs. I will not review every provision in this legislation, but will highlight several of the provisions of particular importance.

The Department of Veterans Affairs Employment Discrimination Resolution and Adjudication Act of 1997 is long overdue. The VA's efforts to eradicate harassment in the workplace have met with little, if any, success since I chaired the first oversight hearings on this issue back in 1992. In the 103d Congress, I cosponsored a bill much like the legislation we

are considering today which overwhelmingly passed the House, but received no action in the Senate. At that time, the VA believed a proposed Governmentwide reform of the Federal EEO process was in the works, and there was no need to pass legislation to address what most would agree was a very serious problem at the Department.

Nearly 5 years later, the long-promised Governmentwide reform has never come, and the VA's "zero tolerance" policy on sexual harassment has proven ineffective if not abysmal. That's why passage by both bodies of Congress of this timely and important legislation to reform the equal employment opportunity process at the VA is critically important.

By removing the EEO complaint process from the facility where the discrimination allegedly occurred, this bill limits the ability of heavy-handed facility directors to unfairly influence the processing of discrimination complaints; by requiring that such complaints be handled by mostly full-time, well-trained investigators at regional EEO field offices, this bill brings greater independence and professionalism to the process. And by removing the final agency decision-making authority from the VA's Office of General Counsel, this bill eliminates the obvious conflict-of-interest that exists today when the general counsel's office is expected to be an advocate for the Department on the one hand, and to decide the merits of a complaint against the Department on the other.

I want to applaud Chairman EVERETT for his willingness to work with JIM CLYBURN and me to put together a bill that will greatly improve the processing of discrimination complaints at the VA. I also want to thank Senators ARLEN SPECTER, BOB GRAHAM, JAY ROCKEFELLER, LAUCH FAIRCLOTH, and TIM HUTCHINSON for working with us in the House to put together a bill we can all be proud of. I also want to commend the Department of Veterans Affairs for their willingness to work with the committees on language to a bill that I know the VA doesn't love, but that most people—even within the VA—would agree they need.

By enacting this legislation, Congress will help put VA back on the path toward restoring employee trust in the EEO process and eradicating discrimination in the workplace. Our veterans and VA employees deserve no less.

A number of the provisions in the House amendment to S. 714 are derived from H.R. 2206, a bill the House already approved. These provisions include measures to clarify, extend, and enhance measures to address homelessness. On any given night in America one-third of those living on the streets are veterans—many of them are my peers from the Vietnam era. I find this hard to live with—both as a veteran and as an American citizen—and I believe the provisions included in the House amendment provide a greater opportunity to respond to this problem. These provisions will allow VA to continue to offer a range of programs to homeless veterans. Together these programs comprise a comprehensive network that meets veterans' needs for health care, substance abuse treatment, vocational rehabilitation, work, and shelter.

Additionally, the House amendment permanently authorizes VA to provide noninstitutional long-term care programs. Many veterans

want to live at home as long as possible—good noninstitutional programs can make this a reality. I encourage VA to take full advantage of this permanent authority to provide cost-effective programs like home care, home aides, and adult day health care to more veterans.

The measure before the House also includes an important change in the eligibility for VA health care for Persian Gulf war veterans. The language makes eligibility for such services contingent upon veterans' service rather than their actual exposure to a specific agent or environmental hazard. The change is significant as it offers veterans, whose illnesses remain undiagnosed, the benefit of the doubt. Until science enables VA to link specific agents with their health consequences, suffering veterans will have the ability to access VA services to treat their special health care needs.

It also offers a provision to create 10 model Persian Gulf veterans' treatment programs in VA. Seven years has been too long to wait to meet the health care needs of these men and women. I am hopeful using this grant approach for funding will allow VA to develop some real centers of excellence and innovation for treatment of veterans' symptoms related to their gulf war deployment.

This measure will also extend authority for VA's Health Professional Scholarship Program for another year, but it will require VA to submit a report on the program's effectiveness in the first 6 months after enactment.

The measure requires VA to establish a strong and comprehensive policy for mammogram screening. The policy will specifically address women veterans over the age of 39 and other veterans with clinical symptoms or risk factors, but will allow physicians and patients to decide how often screening is necessary.

Madam Speaker, I am very pleased that the compromise measure we are now considering includes provision which extends the homeless veterans reintegration project [HVRP] administered by the Department of Labor and authorizes \$10 million for the program. There is virtually no disagreement that one-third of the homeless men in this country are veterans—and that approximately 60 percent of those individuals are veterans of the Vietnam era. This means, Mr. Chairman, that every night, in this great country of ours, more than 280,000 veterans are sleeping on America's streets or in homeless shelters.

Since 1987, HVRP, a modest, cost-effective program designed to help homeless veterans reenter and succeed in the job market, has proven its worth. More than 41,000 homeless veterans have received help and support from the community-based organizations funded under HVRP, and many were placed in jobs at a cost of less than \$1,500 per veteran. Few Government programs can claim to have achieved so much with so little.

Earlier this year, the Veterans' Affairs Committee voted unanimously to fund HVRP. Republicans and Democrats alike came together to show their support for the men and women who have served honorably in our Nation's Armed Forces. Additionally, I was very pleased when the House unanimously approved an amendment I offered for myself and my distinguished colleague from California,

Mr. FILNER, to the Labor, Health and Human Services Appropriation to increase HVRP funding, and I look forward to working with my colleagues on the Labor Appropriations Committee next year to ensure that HVRP is fully funded in fiscal year 1999.

Included in the House amendment to S. 714 are two clarifying amendments which deserve mention. First, the compromise would clarify that children of Vietnam veterans who are born with spina bifida are eligible for the programs provided by the VA for such children regardless of the character of discharge of the child's Vietnam veteran parent. Additionally, the agreement would clarify that VA assessment, evaluation, counseling, and the development of a child's vocational training program must begin at a time which will enable the child to begin participation in that program upon successful completion of secondary schooling or on the child's 18th birthday. These provisions are important to fair and effective implementation of the new spina bifida legislation, and I am pleased they are a part of this compromise measure.

Established under section 8 of Public Law 102-547, the Native American Veteran Housing Loan Pilot Program, administered by the Department of Veterans Affairs [VA], provides direct home loans to native American veterans who reside on trust lands to build or purchase homes on those lands. Previously, native American veterans who resided on trust lands were unable to qualify for VA home loan benefits. The authority for this program expired on September 30, 1997, and I strongly support the 4-year extension of the program included in the compromise agreement.

Under the pilot program, VA can make a loan to a native American veteran for a home on trust lands only if VA had entered into a memorandum of understanding [MOU] with the Tribal entity that had jurisdiction over the trust land. Since the establishment of the program in 1992, VA has entered into 47 such MOU's and 164 loans have been made to native American veterans for the purchase, construction, or improvement of dwellings on trust land. Negotiations continue with hundreds of other tribes to establish memorandums of understanding and more than 90 individual loan applications are pending.

Although the numbers of native Americans who have taken advantage of the loan opportunities available under this program are smaller than expected, new outreach and reporting requirements included in the compromise agreement should result in an increased understanding of the program among Native Americans and thus increased participation.

The legislation we bring to the floor today also includes provisions from H.R. 2571, VA medical care major construction and lease authorizations for fiscal year 1998, another bill the House passed in October. This bill accommodates the administration's construction spending priorities as well as those projects for which appropriations have already been made.

The major construction projects require modest funding, but are critical to providing access to veterans in areas where their needs cannot be met or in maintaining patient safety in existing facilities which are deficient in con-

forming to seismic code. I am also pleased with the emphasis this bill places on outpatient projects and development of information resources management centers.

Leasing, rather than building, to meet VA's needs is also a move in the right direction. VA has sometimes been criticized for using "bricks and mortar" to meet its space requirements while facilities in the community stand vacant. The leases this bill authorizes are a more flexible means by which VA can provide the capacity it needs today, but may not need tomorrow.

Enhanced-use leases are a relatively new venture for VA, but they have proven to be a cost-effective means of providing programs to VA beneficiaries VA could not otherwise afford. The measure we offer today repeals limitations on the number of projects VA can enter in any given year or under current authority.

Enhanced-use leases allow VA to offer lessees land or space to operate programs that ensure discounted benefits for VA, its beneficiaries or its employees over the terms of the lease. Space has been offered for a diverse range of services including child-care that benefits VA employees, co-generation projects, research facilities, and patient services.

I urge my colleagues from both sides of the aisle to join me in support of the provisions to improve health care and benefits for America's veterans that we bring to the floor today. As we approach Veterans Day 1997, this legislation will serve as a part of the appropriate recognition we pay to the men and women who have served our Nation in uniform. This legislation will honor their service and sacrifice and be a tangible expression of our continuing commitment to care for those who have borne the battle, and their survivors and dependents.

Madam Speaker, I reserve the balance of my time.

Mr. STUMP. Madam Speaker, I yield 2 minutes to the gentleman from Alabama [Mr. EVERETT], the chairman of the subcommittee.

Mr. EVERETT. Madam Speaker, I rise in strong support of S. 714, as amended, the Veterans Benefits Act of 1997.

Madam Speaker, I particularly want to address title I of the bill, which is derived from H.R. 1703, the Department of Veterans Affairs Employment Discrimination Resolution and Adjudication Act.

I introduced H.R. 1703 on May 22, 1997, and the House passed it on October 6, 1997. Title I represents a compromise agreement with the Senate on H.R. 1703 and S. 801, the Senate companion bill. I certainly recommend the results to my colleagues. The Senate drew much of the bill from the text of H.R. 1703, and the compromise is entirely consistent with the intent of the House bill.

Legislation to address the VA sexual harassment discrimination problems has been a very long time coming, since 1993, as a matter of fact. I am pleased with title I. I particularly want to thank Chairman STUMP for making it a priority for the Committee on Vet-

erans' Affairs. I also want to thank the gentleman from Illinois [Mr. EVANS] from the committee, the gentleman from South Carolina [Mr. CLYBURN], ranking Democrat on the Subcommittee on Oversight and Investigations, for their original cosponsorship of H.R. 1703 and the leading roles they have played in the development of this important legislation. Also, the gentleman from Florida [Mr. BILIRAKIS] and the gentleman from Indiana [Mr. BUYER] were original cosponsors of H.R. 1703 and have been active in these provisions every step of the way.

Of course, without our Senate colleagues we would have no bill today. I want to commend Chairman SPECTER of the Senate Committee on Veterans' Affairs and Senator ROCKEFELLER, the ranking Democrat, for their hard work and cooperation in making this legislation possible today.

Madam Speaker, title I is for the loyal, dedicated employees of the VA who care for and serve our veterans. Some of them do not have the workplace environment of fairness and respect they deserve. I am optimistic these provisions, along with changes already occurring at the VA, will result in greatly improved employment confidence in the VA's ability to address sexual harassment and other discrimination problems.

This is good and much-needed legislation. I urge my colleagues to act favorably on S. 714, as amended.

Mr. EVANS. Madam Speaker, I yield 3 minutes to the gentleman from California [Mr. FILNER], a member of the committee.

Mr. FILNER. Madam Speaker, I rise in strong support of the Veterans Benefits Act of 1997, S. 714, as amended. Veterans' programs and benefits will be enhanced as a result of enactment of this legislation.

I am particularly pleased that this legislation includes provisions which clarify eligibility for and implementation of the new program that provides benefits for the children of Vietnam veterans who are born with spina bifida. This very important program is in the early days of implementation, and we must ensure that the Veterans Administration is administering the benefits provided in this program in accordance with the intent of Congress.

Madam Speaker, I also want to point out the extension of the Native American Veteran Housing Loan Pilot Program included in section 201 of this bill. Under this program, native Americans who live on trust lands can receive direct loans to build, purchase, or renovate a home.

Prior to the enactment of this program as a pilot 5 years ago, these native American veterans were not eligible for VA home loan assistance. Although this direct loan program has been generally successful, we have been somewhat disappointed in the number

of native Americans who have taken advantage of the loans available under this program.

I believe that the outreach and reporting requirements included in S. 714 will significantly increase participation and enable the VA to more effectively administer this program.

Also included in this bill is a requirement that the VA develop a national policy on mammography screening for women veterans. All of us know that the incidence of breast cancer among American women has reached near epidemic levels. Our women veterans are no less at risk than our female civilians.

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We also know that critical to the management of this disease is early detection, and mammography is an important weapon in the fight against breast cancer. I want women veterans who have served in the Armed Forces on our behalf to have the same high level of access to mammography screening that I would want for members of my own family. Section 208 of this bill will ensure that access.

Madam Speaker, S. 714 is an excellent bill, and it is fitting that this legislation be approved just before Veterans Day. I urge my colleagues to demonstrate their support for America's veterans by voting for S. 714.

Mr. STUMP. Mr. Speaker, I yield 4 minutes to the gentleman from New York [Mr. QUINN], the chairman of the Subcommittee on Veterans Benefits.

Mr. QUINN. Mr. Speaker, I join my good friend, the gentleman from California [Mr. FILNER], in making note that Veterans Day, of course, is only a few days away, and it is appropriate that we come here together today to make improvements to several veterans' benefits programs.

I would like to take my time this afternoon, Mr. Speaker, to address the sections of S. 714 that fall within the jurisdiction of our Subcommittee on Veterans Benefits. I first would like to acknowledge the subcommittee ranking member, the gentleman from California [Mr. FILNER], and the bipartisan spirit in which he helped craft this bill. Without the strong cooperation of both sides of the aisle, I do not think we would be able to present these improvements to our veterans' benefits.

Section 201 of S. 714 continues VA's authority to provide direct loans to Native Americans through the year 2001. This program offers the opportunity to Native American veterans living on tribal trust land to purchase a home that they might not otherwise be able to acquire. The program requires the VA to conclude a memorandum of understanding with tribal governments that, among other things, gives the VA access to the property in case of foreclosure, thus protecting the interests of the taxpayer.

The bill would add specific outreach requirements such as participation in Native American conferences and outstationing loan guaranty specialists in tribal facilities only on a part-time basis. The bill also adds new reporting requirements so that Congress may gain a better understanding of the outcomes of the program.

Section 203 makes changes to several homeless programs, including an extension of the VA's authority through December 31, 1999, to sell, lease, or donate foreclosed VA property to nonprofit organizations or State and local governments for the purpose of providing housing for our homeless veterans.

It also extends the Department of Labor's authority to operate the Homeless Veterans Reintegration Project through 1999 and continues to authorize \$10 million per year for the same program. This program is a grant program administered by the Veterans Employment and Training Service and is designed to work with community-based organizations who focus on providing employment services to unemployed, homeless veterans.

Since its inception in 1988, through and up till 1995, the program has served almost 42,000 homeless veterans, placing nearly 19,000 in jobs. This is an accomplishment for a program that has traditionally been funded only at about \$2 or \$3 million per year.

Also, section 401 makes several technical and clarifying amendments to burial and educational benefits.

Finally, Mr. Speaker, section 404 of the bill also makes clarifying changes to the spina bifida legislation that was passed during the late hours of our 104th Congress. This new section further defines eligibility by establishing January 9, 1962, as the earliest date on which a veteran's service in Vietnam would qualify a child for these benefits. That date conforms to the date on which United States forces began using defoliants in Vietnam.

The bill also further specifies the age at which the Secretary may provide vocational training as graduation from high school or the child's 18th birthday, whichever occurs first. It also requires that a vocational plan must be developed in time for the child to begin training when authorized.

Mr. Speaker, these provisions add to what is already the most complete program for veterans' benefits in the world. It is the right thing to do. I urge all our colleagues to support S. 714, as amended.

Mr. EVANS. Mr. Speaker, I yield 3 minutes to the gentleman from South Carolina [Mr. CLYBURN], a member of the committee.

Mr. CLYBURN. Mr. Speaker, I thank the gentleman from Illinois [Mr. EVANS], the ranking subcommittee member, for yielding me the time.

Mr. Speaker, I rise today in strong support of the Department of Veterans

Affairs Employment Discrimination Prevention Act. This legislation is contained in S. 714, the compromise agreement which is before us today.

This year's Subcommittee on Veterans Oversight hearings have demonstrated the extremely sensitive and serious problem of sexual harassment within the Department of Veterans Affairs. The legislation we are considering today meets these glaring problems head-on.

The gentleman from Illinois [Mr. EVANS] and I were original cosponsors of similar legislation back in 1993. At that time, we were told that changes were in the works regarding the EEO process at VA and throughout the Federal Government and that there was no need for this legislation. This expected Government-wide solution never happened. The Senate never acted on the bill we passed in 1993. And here we are today, almost 5 years later, dealing with the sexual harassment problems that continue to fester at the VA.

It is a tribute to the leadership of the Subcommittee on Oversight chairman, the gentleman from Alabama [Mr. EVERETT], and I thank him for recognizing the continuing need for legislation to improve the EEO process at the VA. Without his commitment to this issue, it is likely that we would not be on the floor today considering final passage of this significant EEO reform legislation.

It is also a tribute to the VA that it has finally recognized its EEO process is seriously flawed and that it has independently proposed administrative changes that draw in large part from the bill we introduced earlier this year.

The VA's proposal did not go far enough, however, and that is why we need to approve this legislation today. By voting in favor of this bill, we in Congress will be doing our part to bring professionalism and independence to the EEO process at the VA and to help restore the faith and trust in the process that has been so lacking over the past few years.

Mr. STUMP. Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana [Mr. COOKSEY], a former flight surgeon and member of the committee.

Mr. COOKSEY. Mr. Speaker, I rise in support of the House amendments to S. 714 and to comment specifically on one provision of this legislation.

Our colleagues in the other body pressed for the inclusion of language which would have established in law specific medical practice criteria for VA clinicians. As a physician and as a legislator, I strongly believe that, as a matter of public policy, we should not attempt to legislate how medicine is practiced. While this bill expresses a sense of the Congress regarding a VA policy, that expression does not bind the VA.

I commend the chairman for following that wise course in this measure, and I urge my colleagues to support it.

Mr. EVANS. Mr. Speaker, I yield 3 minutes to the gentleman from Hawaii [Mr. ABERCROMBIE].

Mr. ABERCROMBIE. Mr. Speaker, I rise today in strong support of the bill to extend the Native American Veterans Housing Loan Program and for other purposes.

In July I introduced H.R. 2317, the House companion bill to S. 714. I am pleased that we are able to take up the Senate's version today. I would like to thank the gentleman from Arizona [Mr. STUMP] and the gentleman from Illinois [Mr. EVANS] and the staff of the Committee on Veterans' Affairs for working hard to strike the compromise which made it possible to take up this bill on the floor today. I would especially like to thank Debra Wada of Senator AKAKA's staff and Jill Cochran of the Committee on Veterans' Affairs for their hard work on improving benefits for native American veterans.

In 1992, the Native American Veterans' Home Loan Equity Act was enacted to establish and implement a pilot program to make direct housing loans to aid native American, Indian, Alaska or Hawaii Native or Pacific islander, veterans in purchasing, constructing, or improving dwellings on trust lands.

The Department of Veterans Affairs has successfully entered into agreements to provide direct loans to members of 46 Indian tribes and Pacific island groups. The VA is in negotiation with hundreds of other tribes to establish memorandums of understanding which would make this program available to those tribes. It is important that we extend this program to allow those native American tribes who are still in negotiations with the VA to have a chance to apply for these loans.

Through June of 1997, 164 loans were made to both Pacific islanders and native American veterans, with 90 applications pending. To date none of those loans issued has been foreclosed. This is an extremely successful program and is the only program available for this group of veterans who live on trust lands to finance homes for their families. The Department of Veterans Affairs supports the extension of this program.

Therefore, Mr. Speaker, the main issue here is equity. Native American veterans have a right to the same benefits available to other veterans. I urge my colleagues to support this important legislation.

Mr. STUMP. Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. STEARNS], chairman of the Subcommittee on Health.

Mr. STEARNS. Mr. Speaker, I thank the gentleman from Arizona [Mr. STUMP], the distinguished chairman of the Committee on Veterans' Affairs.

Mr. Speaker, as we take up this bill just 2 days before Veterans Day, we are in a very concrete way underscoring our commitment to veterans. Among its key provisions, these amendments to S. 714 provide important direction to the Department of Veterans Affairs to address what we believe is a glaring problem, the need to improve the care VA provides to Persian Gulf veterans.

Our committee has held what the American Legion 2 months ago described as "the most comprehensive and important hearings on Gulf War veterans since the end of the Gulf War." This legislation stems from those hearings and would require VA to take a new approach, beginning with creating and funding demonstration programs. This should lead VA to develop new, improved models for treating veterans with undiagnosed or ill-defined conditions.

The bill would also clarify that Persian Gulf veterans are eligible for care of any condition which may be due to their service in the gulf, whether or not it can be linked to toxic substances or environmental hazards.

These amendments would also extend many expiring programs, including VA's authority to provide noninstitutional services to the elderly and needed assistance for homeless veterans.

Mr. Speaker, the legislation also provides needed authorization for VA medical facility construction and leasing initiatives for fiscal year 1998. For these and many other reasons, I support this bill. This is an excellent bill, and I urge all the Members to support it.

Mr. Speaker, I include the following statement for the RECORD:

Mr. Speaker, as we take up this bill just 2 days before Veterans Day, we are in a very concrete way underscoring our commitment to veterans.

Among its key provisions, these amendments to S. 714 provide important direction to the Department of Veterans Affairs to address what is both one of the most glaring problems in the area of veterans affairs, and the most pressing problem facing many Persian Gulf war veterans—the need for effective health care. In wrestling with this problem, our committee has held what the American Legion 2 months ago described as "the most comprehensive and important hearings on Gulf War veterans since the end of the Gulf War." Our findings and resultant legislation have frankly not commanded the attention associated with still speculative questions regarding toxic chemical exposures. We have found that VA treatment, particularly of veterans with hard to diagnose problems, has been uneven from facility to facility. Too often, veterans have fallen through the cracks, and complex cases have not received coordinated care. VA's primary care system appears ill-suited to help the many veterans who suffer from ill-defined, multiple-system health problems. Lack of understanding of the illnesses affecting Persian Gulf war veterans has fueled a perception in many veterans that VA clinicians lack em-

pathy for their conditions. This legislation would begin to remedy the kinds of problems Persian Gulf veterans and independent observers have highlighted about the treatment these veterans have, and in some cases have not, received.

This legislation would require VA to take a new approach in caring for these veterans, beginning with creating and funding demonstration programs to test new approaches to treating Persian Gulf veterans with undiagnosed or ill-defined conditions. Among the approaches VA is to develop under the bill are the use of case managers to oversee all facets of the veteran's care, establishment of specialized clinics serving only Persian Gulf veterans, and the use of multidisciplinary treatment aimed at symptom management. The bill would also expand VA law regarding Persian Gulf veterans' eligibility for care to clarify that such veterans are eligible for care of any condition which may be due to their service in the gulf, whether or not such condition may be attributable to toxic substances or environmental hazards.

Our amendments to S. 714 would also extend a number of expiring health care programs on which our veterans depend. I am very pleased that the bill includes provisions I authored which give VA ongoing authority to provide noninstitutional care and services to the elderly, and which extend, streamline, and improve VA programs serving veterans who are chronically mentally ill and the homeless. This legislation gives VA the tools it needs to serve this population, as well as to work in partnership with communities to help eradicate veteran homelessness. I am pleased that, increasingly, VA is expanding its partnership activities in this and other areas. In that regard, this bill would also enable VA to develop more beneficial public/private partnerships. In adopting provisions passed by the House in April, this measure would allow VA to expand an effective program of leasing unused property for development of facilities such as assistive living facilities, day care centers, and other uses that can benefit veterans or the medical centers that serve them.

The legislation also provides needed authorization for a limited number of VA medical facility construction and leasing initiatives for fiscal year 1998.

I am pleased at what we have accomplished for our veterans in this legislation. I would acknowledge that a number of House-passed provisions on which the Senate had held no hearing are not included in this measure. These provisions include sections 7 and 8 of H.R. 2206. Section 7 would have provided a needed exemption of VA research personnel from an existing policy aimed at reducing the number of VA personnel in certain employment grades. While our committee has not objected to efforts to reduce the numbers of middle management positions in the VA, the failure to exempt researchers is particularly shortsighted and damaging to a program so integral to VA's health care mission. We strongly urge that the Department adopt an exemption, and not wait for us to enact this provision next session. The enactment of section 8 of H.R. 2206 would have ruled out future legislative efforts to open the Federal supply schedule on pharmaceuticals. The committee recognizes, however, that in repealing section 1555 of the

Federal Acquisition Streamlining Act of 1994 this year, Congress has, as a matter of law, effectively rejected as ill-advised the concept of opening the Federal supply schedule to cooperative purchasing.

Overall, this is an excellent bill. I urge Members to support it.

Mr. EVANS. Mr. Speaker, I yield myself such time as I may consume.

I want to thank everybody who has worked on making this legislation happen, particularly the committee's staff. On our side, I would like to recognize the contribution of Mike Durishin, Jill Cochran, Mary Ellen McCarthy, Susan Edgerton, Sandra McClellan, Adam Sachs, Debbie Smith, Beth Kilken, and Tom O'Donnell. They have been of great assistance to us, particularly me in my first year in this position as ranking Democratic member, and we appreciate their time and energy.

Mr. Speaker, I reserve the balance of my time.

Mr. STUMP. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. GILMAN], the chairman of the Committee on International Relations.

Mr. GILMAN. Mr. Speaker, I thank the gentleman from Arizona [Mr. STUMP] for yielding me the time.

Mr. Speaker, I rise in strong support of S. 714, the Homeless Veterans Act. I commend the gentleman from Arizona [Mr. STUMP], the distinguished chairman of the Committee on Veterans' Affairs, and the gentleman from New York [Mr. QUINN], the chairman of the Subcommittee on Veterans' Benefits, for bringing this measure to the floor before this session adjourns.

This bill reauthorizes a pilot program which permits the VA to make direct housing loans to native American veterans through December 2003, which extends the authority of the VA to enter into enhanced-use leases through December 31, 1999. Such leases permit the VA to have the ability to use underutilized property through leases with private and public entities.

Moreover, this legislation also extends for 2 years the VA's authority to operate a health professional scholarship program as well as to provide non-institutional alternatives to veterans' nursing home care and also provides funding for spina bifida cases, which need a great deal of attention.

Accordingly, I urge our colleagues to join in supporting this important legislation which will significantly aid our veterans.

Mr. EVANS. Mr. Speaker, I yield whatever time I have remaining for purposes of control to the gentleman from Arizona [Mr. STUMP], the chairman of the full committee.

Mr. STUMP. Mr. Speaker, I thank the gentleman from Illinois [Mr. EVANS] for yielding me the time.

I yield 2 minutes to the gentleman from Connecticut [Mr. SHAYS].

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Mr. SHAYS. Mr. Speaker, I thank the gentleman for yielding me this time. I rise in support of this legislation and to say that, sadly, when it comes to the diagnosis and treatment and research for gulf war veterans, we find the Federal Government has too often had a tin ear and a cold heart and frankly a very closed mind. I do not view this as a political problem or a challenge that rests with one party, Republican or Democrat. Sadly, the Veterans Administration, the Department of Defense, the Central Intelligence Agency, and even the Food and Drug Administration have not been responsive to our veterans.

As the Chair of a panel that did 11 hearings and made recommendations on this issue, one of the key components is that we ultimately need, in my judgment, to bring research out of the control of the DOD and VA and give it to an agency that will begin to focus more on the chemical components of the myriad of illnesses that affect our veterans.

I urge both the Committee on Veterans' Affairs and the Committee on National Security to put even more focus on this. I know that the President's commission has come out with some recommendations. The Subcommittee on Human Resources of the Committee on Government Reform and Oversight has come out with some recommendations. I think we are at a point where we clearly need to recognize that our troops are not being properly diagnosed, they are not being effectively treated, and they are not being fairly compensated. But I think we are at a point where we are starting to see that change. I know that with the help of the gentleman from Arizona [Mr. STUMP] and the help of the gentleman from Illinois [Mr. EVANS], we are going to see renewed energy in this area. I think this bill is a start in that process and for that, I am grateful. I thank both gentlemen.

Mr. STUMP. Mr. Speaker, I yield 3 minutes to the gentleman from Indiana [Mr. BUYER], a member of the committee, and also the chairman of the Subcommittee on Military Personnel of the Committee on National Security.

Mr. BUYER. Mr. Speaker, I thank the gentleman for yielding me this time. Let me congratulate the gentleman from Arizona [Mr. STUMP] and the gentleman from Illinois [Mr. EVANS] for their work on this bill. I would like to discuss section 103 of this bill. I am disappointed that coming out of the conference with the House and the Senate, the language that the House adopted has in fact been changed. We were seeking to have an independent commission to review what I find to be the very poor culture that is in the Nation's second largest agency, that of the VA. There is not

any Member of this House that has taken on the issue of race and gender that I have over the past year with what occurred at Aberdeen in sexual misconduct in the military. The gentlewoman from California [Ms. HARMAN], the gentlewoman from Florida [Mrs. FOWLER] and I have traveled the world to our military bases and looked at those issues on gender and race relations. We have taken on the systems and subsystems in the military, and we have been very aggressive.

When we turned our eyes upon the VA itself, we began to see a culture problem within the VA, a system whereby the victims were being revictimized through the Office of General Counsel. We saw individuals in their leadership kind of give a wink and a nod to a hostile workplace. Let me congratulate the gentleman from Alabama [Mr. EVERETT] and the gentleman from Arizona [Mr. STUMP] for taking these issues right on and the gentleman from South Carolina [Mr. CLYBURN] on the oversight.

Why I was seeking to have an independent commission is I wanted it stripped completely out of the hands of the VA because of my lack of trust in those who are doing the oversight in the VA itself. I recognize in the language in here, they have been very careful to make sure that there is some insurance here. We are asking the Secretary to have an agreement to make sure that the entity carries out its responsibilities and exercises judgments concerning the assessments in a manner free of any influence. That means I do not want to hear anything over the next year that the VA somehow is scrubbing the contractor or getting some kind of review or pressures. If that is going to happen, I am going to be pretty upset. Because I know what happens when we do independent contracting with the Pentagon. The Pentagon today will ask us an issue and it is politically sensitive and they begin to control and manipulate the contractor. I want to make sure that we have a work environment in the VA that is free of these hostilities. I want to make sure that we have a system there that stops the revictimizing of the victim because it is very difficult for us to actually measure how does that impact upon the care to the veteran itself.

Let me congratulate the gentleman from Arizona [Mr. STUMP], because the gentleman from Arizona [Mr. STUMP], the gentleman from Illinois [Mr. EVANS] and others, want to make sure that we have a good system. I hope and I pray that what has been worked out here is, in fact, going to meet the ends for which the gentleman from Arizona and I both want. My message for coming here to the well today is that I will be watching and I know the gentleman from Arizona will, too, over the contract. I will be watching the VA just

like the gentleman from Alabama [Mr. EVERETT] has done on the oversight to make sure that there are no manipulations whatsoever with the contractor and that the assessment that is done is completely independent, because if they do not, we are coming down on them hard.

Mr. STUMP. Mr. Speaker, I yield myself such time as I may consume. I thank the gentleman for his kind remarks.

Mr. Speaker, I would like to thank Senator SPECTER, Senator ROCKEFELLER and the staff of the Senate Veterans' Affairs Committee for their hard work in reaching an agreement on this bill.

I also want to thank the members of the House Committee on Veterans' Affairs who participated in the development of this legislation with the Senate. The gentleman from Illinois [Mr. EVANS], the ranking member, has been very cooperative through this entire process. The gentleman from Alabama [Mr. EVERETT], the gentleman from Florida [Mr. STEARNS], and the gentleman from New York [Mr. QUINN], the subcommittee chairmen; the gentleman from South Carolina [Mr. CLYBURN], the gentleman from Illinois [Mr. GUTIERREZ], and the gentleman from California [Mr. FILNER], the ranking members, also put in a great deal of time to move this committee's agenda.

I especially want to thank the gentleman from Louisiana [Mr. COOKSEY] and the gentleman from Arkansas [Mr. SNYDER]. Both are physicians and both are members of this committee. We have indeed been very fortunate to have them. They were especially helpful in negotiations with the Senate.

I would like to thank the staff of the House Committee on Veterans' Affairs for their diligent work on behalf of America's veterans. Three staff members will be leaving us this year: Ira Greenspan, Allison Clarke, and Sloan Rappoport.

On behalf of all committee members, I want to express our deepest appreciation for all their hard work and efforts and wish them the very best in their future endeavors.

Mr. Speaker, I include for the RECORD a detailed joint explanatory statement of the provisions considered during our deliberations on this measure.

JOINT EXPLANATORY STATEMENT FOR S. 714, THE PROPOSED "VETERANS BENEFITS ACT OF 1997"

S. 714, the proposed "Veterans Benefits Act of 1997" reflects a compromise agreement the Senate and House of Representatives Committees on Veterans' Affairs have reached on a number of bills considered in the Senate and House during the 105th Congress, including H.R. 1092, passed by the House on April 16, 1997, H.R. 1703, passed by the House on October 6, 1997, H.R. 2206, passed by the House on October 6, 1997, H.R. 2571, passed by the House on October 6, 1997, S. 714, passed by the Senate on November 5, 1997, S. 986, or-

dered reported by the Senate Committee on October 7, 1997, S. 801, ordered reported by the Senate Committee on October 7, 1997, and S. 999, ordered reported by the Senate Committee on October 7, 1997.

The Committees on Veterans' Affairs have prepared the following explanation of S. 714 (hereinafter referred to as the compromise agreement). Differences between the provisions contained in the compromise agreement and the related provisions in the bills listed above are noted in this document, except for clerical corrections and conforming changes made necessary by the compromise agreement, and minor drafting, technical, and clarifying changes.

VA EMPLOYMENT DISCRIMINATION RESOLUTION AND ADJUDICATION

Current law

Within the statutory framework of title VII, United States Code, the Equal Employment Opportunity (EEO) complaint process for the Department of Veterans Affairs (VA) is governed by federal regulations and Equal Employment Opportunity Commission (EEOC) directives applicable to all federal agencies. The EEO program at VA is under the direction of the Deputy Assistant Secretary for Equal Opportunity, who reports to the Assistant Secretary for Human Resources and Administration.

The complaint process begins when a VA employee contacts a facility EEO counselor. That counselor is appointed by the facility director who is the EEO Officer for the facility and the custodian of the complaint process. Counseling allows an opportunity for informal resolution of a complaint at the local level. Most EEO counselors perform EEO duties in addition to unrelated VA responsibilities, and all EEO counselors report to the facility director. On receipt of a formal complaint, VA must advise the complainant that it is required to conduct a complete and fair investigation within 180 days. The notice also advises the complainant of the right to appeal the final decision to the EEOC. The facility director (EEO Officer) accepts formal complaints and refers those believed to be procedurally defective (about 25 percent a year) to the Office of General Counsel (OGC) for legal review. If any part of the complaint is accepted, the OGC advises the facility and requests the appointment of an EEO investigator to the case. The investigator provides a Report of Investigation to both the complainant and the EEO Officer.

The agency and complainant may settle the complaint at any point in the EEO process. If a settlement is not reached after the Report of Investigation has been received, the complainant may request either a final agency decision from VA without a hearing, or a hearing by an EEOC Administrative Judge and then a final agency decision. If the complainant is dissatisfied with the agency's final decision, he or she may appeal it to the EEOC Office of Federal Operations. The final step in the complaint process is a title VII civil action in Federal district court. The complainant has the right to file a civil action against the agency any time after 180 days have passed since the filing of a formal complaint with the EEOC Office of Federal Operations. Once in Federal Court, the complaint leaves the EEO administrative complaint system.

House bill

Section 2 of H.R. 1703 would direct the Secretary to establish a new VA employment discrimination complaint resolution system whose employees would be supervised by and report to an Assistant Secretary or Deputy

Assistant Secretary for complaint resolution management. A new Office of Resolution Management (ORM) would be supported by district managers, field offices, full time EEO counselors and investigators, and 40 FTEE collateral duty counselors. In addition, the ORM would be authorized to make certain final agency decisions on procedural issues.

Section 3 of H.R. 1703 would establish a VA Office of Employment Discrimination Complaint Adjudication (OEDCA). The bill would transfer final agency decision authority on substantive issues from the Office of the General Counsel to OEDCA. The OEDCA, located in VA Central Office, would be a quasi-independent complaint adjudication unit. The Director of the OEDCA would report directly to the Secretary or Deputy Secretary. In addition to its complaint adjudication responsibilities, the OEDCA would be responsible for creating an efficient and effective complaint tracking system.

Section 4 of H.R. 1703 would provide an effective date of 90 days after enactment of this Act.

Section 5 of H.R. 1703 would establish an independent panel to review EEO and sexual harassment procedures within VA. The panel would be composed of six members—three appointed jointly by the chairman and ranking member of the House Committee on Veterans' Affairs, and three appointed jointly by the chairman and ranking member of the Senate Committee on Veterans' Affairs.

Senate bill

Section 2 of S. 801 would establish a structural component for the Office of Resource Management (ORM) which is identical to section 2 of H.R. 1703. Additionally, section 2 of S. 801 would require the VA Office of Inspector General to investigate allegations of discrimination against all GS-15s and above, and report to Congress and the Secretary. Section 2 would also require the Secretary to ensure that complainants may elect to consult with full-time EEO employees or part-time EEO employees. Section 2 would contain more specific reporting requirements including information on counseling relating to employment discrimination, the number and type of employment discrimination complaints, the status of such complaints, and the terms of any settlement.

Section 3 of S. 801 is identical to section 3 of H.R. 1703.

Section 4 of S. 801 would require the Secretary to contract with a private entity to assess VA's discrimination complaint resolution system. The assessment would include a study of the effectiveness of the training and maintenance of groups of VA employees assigned to investigate claims and provide counseling; the education and training of VA employees regarding their rights and obligations under EEO laws; the use of alternative dispute resolution procedures and settlements in resolving EEO complaints; and other programs, procedures or activities of VA relating to the EEO laws.

Section 5 of S. 801 is identical to section 4 of H.R. 1703.

Compromise agreement

Section 101 follows section 2 of the House bill except that it requires VA to transmit a quarterly notice to the Committees on Veterans' Affairs of the House and Senate which summarizes each employment discrimination complaint filed in the preceding quarter against certain high ranking VA employees. The notice will not include the name of the individual who filed the complaint or name of the individual against whom the complaint is filed. The notice will summarize the

nature of the allegations and identify the VA EEO regional field office at which the complaint was filed. The notice will also include a redacted copy of the complaint of employment discrimination and any attachments. Section 101 also requires the Secretary to ensure that complainants may elect to consult with fulltime EEO employees or part-time EEO employees. Section 101 contains the expanded reporting requirements included in the Senate bill.

Section 102 follows section 3 of the House bill.

Section 103 follows section 4 of the Senate bill, with an additional requirement that the Secretary ensure the independence of the private entity conducting the assessment of VA's employment discrimination complaint resolution system.

#### NATIVE AMERICAN HOME LOAN PROGRAM

##### *Current law*

Subchapter V of chapter 37, title 38, United States Code, authorizes the Secretary of the Department of Veterans Affairs (VA) to conduct a pilot program making direct loans to Native Americans to purchase, construct, renovate, or refinance homes on trust land. The Secretary is required to enter into a memorandum of understanding (MOU) with the various tribal governments prior to making any such loans. The MOU must give the Secretary access to the property for any purpose such as appraisal or monitoring of construction in connection with the loan. Tribal governments must agree to assist with the implementation in a responsible and prudent manner.

The maximum loan amount is \$80,000 unless the Secretary determines that local housing costs justify a higher amount. The Secretary is required to establish appropriate credit underwriting standards which give consideration to the purpose of the program. The Secretary is also required to conduct an outreach program to educate tribal organizations and Native American veterans about the program. The program expired September 30, 1997.

##### *House bill*

The House bill contains no provision changing current law.

##### *Senate bill*

Section 1 of S. 714 would extend the authority to carry out this program through December 31, 2003, and add provisions regarding specific outreach requirements. These include consulting about the housing needs of Native Americans with the National Congress of American Indians, the National American Indian Housing Council and the Department of Hawaiian Homelands, as well as distributing information to tribal organizations. The bill also requires an annual report by February 1 of each year detailing the operations of the program, outreach activities and an analysis of the pool of Native American veterans who are eligible for participation in the program.

##### *Compromise agreement*

Section 201 includes the Senate provisions with added outreach and reporting requirements and extends VA's program authority to December 31, 2001.

#### TREATMENT AND REHABILITATION FOR SERIOUSLY MENTALLY ILL AND HOMELESS VETERANS

##### *Current law*

Current law includes several provisions which authorize specific VA programs to assist homeless veterans and to contract for residential care for homeless veterans, men-

tally ill veterans, and veterans suffering from substance abuse or dependence.

Section 1720A of title 38, United States Code, permits the Secretary to contract for care, treatment, and rehabilitative services in various treatment facilities—subject to a review of the quality and effectiveness of its programs—for eligible veterans suffering from alcohol or drug dependence or abuse disabilities.

The Secretary is also given the authority to work in consultation with the Secretary of Labor and the Director of the Office of Personnel Management to urge federal agencies and appropriate private companies to provide employment opportunities to those veterans who have completed such programs.

Under this section of law, the Secretary is directed to provide referral services to non-eligible veterans who seek alcohol or drug dependence assistance.

The authority to furnish such care expires after December 31, 1997.

The Secretary was also tasked with conducting ongoing clinical evaluations of drug and alcohol abuse treatment to veterans, and to report to Congress on the findings.

Section 115 of Public Law 100-322 (as extended through subsequent laws) authorizes the VA to conduct a pilot program to provide care, treatment and rehabilitative services in halfway houses, therapeutic communities, psychiatric residential treatment centers, and other community-based treatment facilities to eligible homeless veterans suffering from chronic mental illness disabilities. This program is set to expire on December 31, 1998.

Section 7 of Public Law 102-54 authorizes the Secretary to carry out a compensated work therapy and transitional housing demonstration program, which expires on December 31, 1997.

Section 107 of the Veterans' Medical Programs Amendments of 1992 requires the Secretary to (1) assess all programs developed by VA facilities which have been designed and established to assist homeless veterans; and (2) to the maximum extent practicable, seek to replicate at other VA facilities those programs which have as a goal the rehabilitation of homeless veterans. It also requires directors of VA medical centers and regional benefits offices, in coordination with non-VA organizations with experience working with local homeless persons, to develop lists of all programs assisting homeless persons and encourages the cooperative development of a local plan for coordinating services for homeless veterans. The law also requires VA medical center directors and regional office directors to meet, to the maximum extent feasible through existing programs and available resources, the identified needs of homeless veterans and attempt to inform homeless veterans whose needs cannot be met of services available in the area.

Section 2 of the Homeless Veterans Comprehensive Service Programs Act of 1992 requires the Secretary to establish and operate, through September 30, 1997, a pilot program to expand and improve the provision of benefits and services by the Department of Veterans Affairs to homeless veterans. VA is authorized to operate up to eight demonstration programs, and each site shall include a comprehensive and coordinated array of specialized services.

##### *House bill*

Section 2(a) of H.R. 2206 would consolidate, extend and revise, in part, Department of Veterans Affairs programs which serve veterans who are homeless or suffer from chronic mental illness or substance abuse or de-

pendence. It would amend chapter 17 to title 38, United States Code, by adding a new subchapter entitled "Treatment and Rehabilitation for Seriously Mentally Ill and Homeless Veterans."

New section 1771 would authorize the Secretary to provide outreach services; care, treatment, and rehabilitative services; and therapeutic transitional housing assistance to veterans suffering from serious mental illness, including veterans who are homeless.

New section 1772 would authorize the Secretary, in conjunction with operating compensated work therapy programs, to operate residences and facilities as therapeutic housing. The provision would give the Secretary latitude to purchase, lease, or otherwise acquire residential housing in such a way as to best expedite the opening and operation of transitional housing. Such housing would be subject to requirements specified in the bill, to include a requirement that only eligible veterans and a house manager may live at a residence; veterans residents would be required to make payments that contribute to covering their board and the operating costs of the facility. Furthermore, residents would be prohibited from drinking or taking drugs and would be subject to drug testing. Any resident in violation of this policy could be expelled. All zoning, building permit, and other similar community requirements—as well as State and community fire and safety requirements—would be applicable. The measure would authorize the Secretary to set reasonable payment rates for residents, limit the duration of each veteran's residence, and establish qualifications for the house manager. The Secretary would have broad authority in selecting property to be established as transitional housing. The Secretary could consider any suitable defaulted residential property, any suitable space within a facility already under the Department's jurisdiction but no longer in use, and any other property acquired by the Department. The measure makes specific provision for the transfer of defaulted property from the Veterans Benefits Administration as well as obtaining property from the Department of Housing and Urban Development. The Secretary may dispose of any property acquired for this purpose and funds obtained by such a sale would go to the General Post Fund. Section 1772 would also provide that payments received by the VA under this section be deposited in the General Post Fund. The measure would require the Secretary to manage the program so that expenditures for any fiscal year do not exceed by more than \$500,000 proceeds credited to the General Post Fund under this section. Operating funds and receipts would be accounted for separately and would each be stated in the President's budget for each fiscal year.

New section 1773 would direct the Department, subject to the availability of appropriations, to operate no fewer than eight comprehensive-services centers to assist homeless veterans.

New section 1774 would, subject to available funding, require VA, in assisting homeless veterans, to coordinate, and permit the Department to provide authorize services in conjunction with other agencies of State, local, and Federal government, and non-governmental organizations. It would also require VA facility directors to assess and identify local homeless veterans, needs and the adequacy of existing programs to meet those needs, and take appropriate action, to the extent practicable to meet those needs. Such assessments are to identify homeless veterans' needs in the areas of health care,

education and training, employment, shelter, counseling, and outreach services. Each assessment is also to comment on the adequacy of current VA programs with regards to these needs. This section would also require local VA officials to work with other governmental entities and homeless advocacy groups to develop a list of programs designed to assist homeless persons and homeless veterans in the area; provide outreach to the developers of local homeless programs to coordinate the provision of services to homeless veterans; attempt to identify and meet the needs of homeless veterans; and inform the homeless veteran population in the area whose needs cannot be met by the VA director of services available to such veterans in the community.

#### Senate bill

Section 2(a) of S. 714 would extend the VA's authority under section 1720A of title 38, United States Code, to treat and rehabilitate veterans with alcohol or drug dependence or abuse disabilities through December 31, 1999.

Section 2(c) of S. 714 would extend the VA's authority to provide community-based care to homeless veterans under the Veterans' Benefits and Services Act of 1988 through December 31, 1999.

Section 2(d) of S. 714 would extend the VA's Compensated Work Therapy and Therapeutic Transitional Housing demonstration program under Public Law 102-54 through December 31, 1999.

Section 2(e) of S. 714 would amend the Homeless Veterans Comprehensive Service Programs Act of 1992 to extend through September 30, 1999 (1) VA's authority to operate comprehensive service centers to assist homeless veterans, (2) VA's authority to make grants and to assist homeless veterans, and (3) the authorization of appropriations for that Act.

#### Compromise agreement

Section 202 generally follows the House bill, except that the program authorities would include a sunset date of December 31, 2001.

#### SALE OR LEASE OF VA PROPERTIES TO HOMELESS PROVIDERS

#### Current law

Section 3735 of title 38, United States Code, authorizes the Secretary of the VA to sell, lease or donate foreclosed VA properties to nonprofit organizations or a State or political subdivision of a State for the purpose of assisting homeless veterans and their families in acquiring shelter. Properties eligible for transfer under this program are those not likely to be sold at a price that would reduce the VA's liability on the property. Providers must comply with all zoning codes and agree to use the property to shelter primarily homeless veterans and their families. The Secretary may make loans on such properties at below-market rates and may waive all fees required under section 3729 of title 38, United States Code. The program expires December 31, 1997.

#### House bill

The House bill contains no provision changing current law.

#### Senate bill

Section 2 of S. 714 would extend the authority to carry out this program through December 31, 1999.

#### Compromise agreement

Section 203(a) includes the Senate provision.

#### EXTENSION OF HOMELESS VETERANS COMPREHENSIVE SERVICE GRANT PROGRAM

#### Current law

Section 3 of the Homeless Veterans Comprehensive Service Programs Act of 1992 (38 USC section 7721 note) authorizes the Secretary to establish and operate a grant program to assist eligible entities in establishing new programs to furnish outreach, rehabilitative services, vocational counseling and training, and transitional housing assistance to homeless veterans. This program expired on September 30, 1997 and limited the Department to providing grants for no more than 25 service centers and no more than 20 programs which incorporate the procurement of vans for use in outreach to, and transportation for, homeless veterans to carry out the intention of the law.

#### House bill

Section 3 of H.R. 2206 would extend VA's authority to make such grants to September 30, 1999 and would strike the limitation on the number of grants which may be awarded for specified purposes.

#### Senate bill

Section 2(e)(2) of S. 714 would extend the grant program until September 30, 1999.

#### Compromise agreement

Section 203(b) follows the Senate bill.

#### HOMELESS VETERANS REINTEGRATION PROJECT

#### Current law

The Stewart B. McKinney Homeless Assistance Act (title 42, section 11448(e)(1)) authorizes the Department of Labor to provide grants to community based organizations focusing on returning homeless veterans to the work force. The program is administered by the Veterans Employment and Training Service. From 1988 through 1996, the program served over 41,000 homeless veterans, placing over 18,000 in jobs. The program expires December 31, 1997.

#### House bill

The House bill contains no provision changing current law.

#### Senate bill

Section 4(e) of S. 714 would amend the Stewart B. McKinney Homeless Assistance Act (title 42, section 11448(e)(1)) to extend the expiration date of the Homeless Veterans Reintegration Project to December 31, 1999, and authorize expenditures up to \$10,000,000 per year.

#### Compromise agreement

Section 203(c) includes the Senate provision.

#### ANNUAL REPORT ON ASSISTANCE TO HOMELESS VETERANS

#### Current law

Section 1001 of the Veterans Benefits Improvements Act of 1994 (38 USC section 7721 notes) requires that the Secretary, by April 15 of each year, submit to the Committees a report on the activities of the VA's homeless programs. The annual report is to include the number of homeless veterans provided assistance under VA programs, the cost of providing these programs, and any other information the Secretary deems appropriate.

#### House bill

Section 4 of H.R. 2206 would expand the scope of this reporting requirement. It would require the VA to report on its evaluation of the effectiveness of its programs relating to residential work therapy, outreach, community-based residential treatment, and case management, as well as contract care programs for alcohol and drug dependence or

abuse disabilities. Further, it would require the Secretary to evaluate and report on the effectiveness of programs established through grants awarded under the Homeless Veterans Comprehensive Service Grant Program.

#### Senate bill

The Senate bill contains no comparable provision.

#### Compromise agreement

Section 204 follows the House bill.

#### ENHANCED-USE LEASES OF DEPARTMENT OF VETERANS AFFAIRS REAL PROPERTY

#### Current law

Under section 8169 of title 38, United States Code, the Secretary's authority to enter into enhanced-use leases of Department of Veterans Affairs real property expires after December 31, 1997.

Section 8168 of title 38, United States Code, limits the number of enhanced-use leases (other than leases for child care centers) which the Secretary may execute to 20, and sets a 10-project cap on such leases during any one fiscal year.

#### House bill

Section 101 of H.R. 1052 would extend the Secretary's authority to enter into such leases to December 31, 2002 and would repeal the limits on the number of enhanced-use leases which the Secretary may execute.

#### Senate bill

Section 3 of S. 714 would change the limit from 20 to 40 and extend the program until December 31, 1999.

#### Compromise agreement

Section 205 generally follows the House bill except that the program would expire on December 31, 2001.

#### NONINSTITUTIONAL ALTERNATIVES TO NURSING HOME CARE

#### Current law

Section 1720C of title 38, United States Code, authorizes the Secretary to conduct a pilot program for the furnishing of medical, rehabilitative and health-related services in noninstitutional settings for eligible veterans for nursing home care. This provision authorizes VA services through December 31, 1997.

#### House bill

Section 5 of H.R. 2206 would provide ongoing authority for this program.

#### Senate bill

Section 4 of S. 714 would extend the program through December 31, 1999.

#### Compromise agreement

Section 206 follows the House bill.

#### HEALTH PROFESSIONAL SCHOLARSHIP PROGRAM

#### Current law

Section 7611 of title 38, United States Code, authorizes the Department to institute the Department of Veterans Affairs Health Professional Scholarship Program, which gives students the opportunity to receive VA health care scholarships in exchange for a specified period of employment in VA after graduation. In authorizing an extension of that program through December 31, 1997, Congress in section 202 of Public Law 104-110 required the Department to evaluate the efficacy of the program and compare its costs and benefits with alternative approaches to ensure adequate recruitment and retention of health professionals. The Department failed to carry out that report requirement.

#### House bill

The House bill contains no provision changing current law.

*Senate bill*

Section 4(b) of H.R. 714 would extend the program through December 31, 1999.

*Compromise agreement*

Section 207 would extend the program to December 31, 1998 and would also require that the Department report to Congress within six months in accordance with the requirement in Public Law 104-110.

## MAMMOGRAPHY STANDARDS

*Current law*

Section 106(a)(2) of the Veterans Health Care Act of 1992 (38 USC 1710 note) provides that the Department may provide breast examinations and mammography to women veterans.

*House bill*

The House bill contains no comparable provision.

*Senate bill*

S. 999 would specify that the Department follow the recommendations of the American Cancer Society regarding the frequency of screening mammograms for women in specific age groups.

*Compromise agreement*

Section 208 would require the VA's Under Secretary for Health to develop a national policy for the VHA with respect to mammography standards for veterans. Such a policy would specify standards of mammography screening and include recommendations on screening for women over the age of 39 and veterans with clinical symptoms, risk factors or family history of breast cancer. The section would also provide for clinician discretion on this matter. Additionally, the section includes a section (c) Sense of the Congress, that the policy adopted by VHA in sections (a) and (b) shall be in accordance with the guidelines endorsed by the Secretary of Health and Human Services and the Director of the National Institutes of Health.

## PERSIAN GULF WAR VETERANS

*Current law*

Section 703 of Public Law 102-585, as amended, directs the VA to provide a health examination (including any appropriate diagnostic tests), consultation, and counseling with respect to the results of such an examination to any Persian Gulf War veteran who requests such an examination. Such examination findings are also to be included in a Persian Gulf War Veterans health registry, to be maintained by the VA.

Section 1710(e)(1)(c) of title 38, United States Code, provides eligibility for care, through December 31, 1998, to any veteran of the Persian Gulf War who may have been exposed to a toxic substance or environmental hazard during such service for any condition which may be associated with such exposure.

*House bill*

Section 6(a) of H.R. 2206 would specify that Persian Gulf veterans shall be verbally counseled on the results of health examinations carried out under section 703 of Public Law 102-582, as amended.

Section 6(b) of H.R. 2206 would clarify that a Persian Gulf veteran is eligible for VA health care for any condition—not just for exposure of a toxic substance or environmental hazard—which may be associated with service in the Gulf.

Section 6(c) of H.R. 2206 would direct the Secretary to carry out a program of demonstration projects designed to test innovative approaches to treating Persian Gulf veterans at up to 10 VA medical centers across the country. Three treatment models—a spe-

cialized Persian Gulf clinic, a multidisciplinary treatment program aimed at managing symptoms, and the use of case managers—would be used at at least two demonstration sites. The Secretary is required to provide \$5 million in appropriated funds for use in carrying out these projects. Before a location has been designated as a demonstration site, a peer review panel must determine the efficacy of the selection, using as its criteria the facility's ability to attract outstanding and innovative physicians to the project and to effectively evaluate the activities of the project.

*Senate bill*

The Senate bill contains no comparable provisions.

*Compromise agreement*

Section 209 follows the House bill except that it does not include Section 6(a), which contains a provision relating to VA counseling of Persian Gulf veterans.

## REPORT ON MEDICAL EMERGENCIES ARISING FROM TERRORISM

*House bill*

The House bill contains no provision changing current law.

*Senate bill*

Section 432 of S. 986 requires the President by March 1, 1998, to submit to Congress a report on plans, preparations and the capability of all levels of government to respond nationally to medical emergencies arising from the terrorist use of weapons of mass destruction. The report is to be prepared in consultation with specified departments and agencies of the Federal government, and the President is to designate a lead agency for purposes of preparing the report. The section specifies matters to be included in such report, including a description of steps taken to prepare to respond to such emergencies; a description of existing obligations, roles, and lines of authority within government for such a situation; an assessment of current level of preparedness and listing of existing medical assets available to respond; and estimated costs of government agencies and departments to prepare for and carry out their respective roles.

*Compromise agreement*

Section 210 follows the Senate bill.

## CONSTRUCTION AUTHORIZATION AUTHORIZATION OF MAJOR MEDICAL FACILITY PROJECTS

*Current law*

Section 8104(a)(2) of title 38, United States Code, provides that no funds may be appropriated for any fiscal year, and the Secretary of Veterans Affairs may not obligate or expend funds (other than for advance planning and design), for any major medical facility project unless funds for that project have been specifically authorized by law.

*House bill*

Section 1(1) of H.R. 2571 would authorize the Secretary to carry out a seismic corrections project at the Memphis VA Medical Center in an amount not to exceed \$34.6 million.

Section 1(2) of H.R. 2571 would authorize the Secretary to make seismic corrections and other improvements at the McClellan Hospital in Sacramento, California using up to \$48 million in previously appropriated funds.

Section 1(3) of H.R. 2571 would authorize the Secretary to carry out outpatient improvement projects with already-appropriated funds at facilities in Mare Island,

Vallejo, California and Martinez, California in an amount not to exceed \$7 million.

*Senate bill*

Section 201 of S. 986 contains provisions substantively similar to section 1(1) of H.R. 2571.

S. 986 contains no comparable provision to sections 1(2) and 1(3) of H.R. 2571.

*Compromise agreement*

Section 301 follows the House bill.

## AUTHORIZATION OF MAJOR MEDICAL FACILITY LEASES

*Current law*

Section 8104(a)(2) of title 38, United States Code, provides that no funds may be appropriated for any fiscal year, and the Secretary of Veterans Affairs may not obligate or expend funds (other than for advance planning and design), for any major medical facility lease unless funds for that lease have been specifically authorized by law.

*House bill*

Section 2 of H.R. 2571 would authorize the Secretary to carry out the following leases of satellite outpatient clinics: Jacksonville, FL, \$3.095 million; Boston, MA, \$5.215 million; Canton, OH, \$2.115 million; Portland, OR, \$1.919 million; and Tulsa, OK, \$2.112 million.

Section 2 of H.R. 2571 would authorize the Secretary to carry out the following leases of information resources management field offices: Birmingham, AL, \$595,000; and Salt Lake City, UT, \$652,000.

*Senate bill*

Section 202 of S. 986 contains provisions identical to section 2 of H.R. 2571, except that the lease for the satellite outpatient clinic in Canton, OH is authorized for \$735,000.

*Compromise agreement*

Section 302 follows the House bill.

## AUTHORIZATION OF APPROPRIATIONS

*Current law*

Section 8104(a)(2) of title 38, United States Code, provides that no funds may be appropriated for any fiscal year, and the Secretary of Veterans Affairs may not obligate or expend funds (other than for advance planning and design), for any major medical facility lease unless funds for that project or lease have been specifically authorized by law.

*House bill*

Section 3(a)(1) of H.R. 2571 would authorize to be appropriated to the Department of Veterans Affairs for fiscal year 1998 \$34.6 million for the Construction, Major Projects account to be used for major medical facility projects.

Section 3(a)(2) of H.R. 2571 would authorize to be appropriated to the Department of Veterans Affairs for fiscal year 1998 \$15.703 million for the Medical Care account to be used for major medical facility leases.

Section 3(b) of H.R. 2571 would limit the authorized projects to be carried out using only (1) specifically authorized major construction funds appropriated for fiscal year 1998; (2) funds appropriated for Construction, Major Projects before fiscal year 1998 that remain available for obligation; and (3) funds appropriated for Construction, Major Projects, for fiscal year 1998 for a category of activity not specific to the project.

*Senate bill*

Section 203(a) of S. 986 would authorize appropriations for Fiscal Years 1998 and 1999. It would authorize a \$34.6 million appropriation for the Construction, Major Projects account

and a \$14.323 million appropriation for the Medical Care account.

Section 203(b) differs from section 3(b) of H.R. 2571 only in that both fiscal years 1998 and 1999 are included.

*Compromise agreement*

Section 303 follows the House bill.

CLARIFICATION ON ELIGIBILITY FOR HEALTH CARE

*Current law*

In amendments to section 1710 in Public Law 104-262, Congress provided, in pertinent part, that VA "shall" (subject to available appropriations) furnish hospital care and medical services to a veteran "who has a compensable service-connected disability" (38 U.S.C. section 1710(a)(2)(A)). Section 1710(a)(2)(B) of title 38, United States Code, reflects similar terminology in providing for care of any veteran discharged or released for active service "for a compensable disability".

*House bill*

The House bill contains no provision changing current law.

*Senate bill*

Section 412(a) of S. 986 would strike the word compensable from section 1710(a)(2)(B), as amended by P.L. 104-262.

*Compromise agreement*

Section 402(a) follows the Senate provision.

HOME IMPROVEMENTS

*Current Law*

A technical amendment in the Veterans' Health Care Eligibility Reform Act of 1996 was construed by the Department as having had the effect of limiting to so-called "category A" veterans' eligibility for VA payments for home improvements and structural alterations. Higher-income ("category C") veterans, who had been eligible for a one-time \$1200 benefit under prior law, were deemed ineligible under the change.

*House bill*

Section 9(a) of H.R. 2206 would amend section 1717(a)(2)(B) of title 38, United States Code, to clarify that category C veterans under VA treatment are eligible for the one-time \$1200 home improvement/structural alteration benefit.

*Senate bill*

Section 412(b) of S. 986 contains a similar provision.

*Compromise agreement*

Section 402(b) follows the Senate bill.

TRANSFERS TO COMMUNITY NURSING HOMES

*Current law*

Under section 1720 of title 38, United States Code, VA may only transfer to, and provide for care in, a community nursing home, veterans who have received VA inpatient care. Existing law makes no provision for such transfer and placement on the part of a veteran who, in the course of VA provision of ambulatory treatment, is found to need nursing home care.

*House bill*

The House bill contains no provision changing current law.

*Senate bill*

Section 412(c) of S. 986 would strike the limitation in section 1720 of title 38, United States Code, which restricts VA transfers and placements into community nursing homes to veterans receiving inpatient care, and would authorize such needed placements for any veteran under care in a VA facility.

*Compromise agreement*

Section 402(c) follows the Senate provision.

SHARING OF HEALTH-CARE RESOURCES:  
PURCHASING

*Current law*

Under section 8153 of title 38, United States Code, VA may enter into agreements with any entity to buy health care resources. Where VA proposes to obtain such resources from an affiliated institution or organization, it may do so, under section 8153(a)(3)(A), "without regard to any law or regulation" requiring competition. VA may also procure such resources from a source other than an affiliated entity under simplified procedures aimed at promoting competition to the maximum extent practicable; such "simplified procedures . . . shall permit all responsible sources to submit a bid. . . ." (38 USC section 8153(a)(3)(B)).

*House bill*

The House bill contains no provision changing current law.

*Senate bill*

Section 412(d) of S. 986 would amend section 8153(a)(3)(A) to clarify that purchases of resources from an affiliated entity are exempt from otherwise applicable requirements for competition not only in law or regulation but also in any Executive order, circular, or other administration policy. Section 412(e) of S. 986 would amend section 8153(a)(3)(B) to clarify that VA may reasonably limit the number of sources sought for bids under its authority to employ simplified procedures.

*Compromise agreement*

Sections 402(d) and 502(e) follow the Senate provision.

HOSPITAL REFERENCE

*Current law*

The VA medical facility in Columbia, South Carolina is named the "Wm. Jennings Bryan Dorn Veterans' Hospital".

*House bill*

Section 9(b) of H.R. 2206 would redesignate this facility as the "Wm. Jennings Bryan Dorn Department of Veterans Affairs Medical Center".

*Senate bill*

The Senate bill contains no comparable provision.

*Compromise agreement*

Section 403 follows the House bill.

*Current law*

SPINA BIFIDA

*Current law*

Chapter 18 of title 38, United States Code, authorizes the Secretary to provide medical care, compensation, and vocational training benefits for Vietnam veterans' children who are conceived following service in Vietnam and are born with spina bifida. The veteran must have been discharged under conditions other than dishonorable. Compensation in the amounts of \$200, \$700, and \$1,200 is based on the severity of the disability. Children are eligible for up to 24 months of vocational training generally following completion of high school.

*House bill*

The House bill contains no provision changing current law.

*Senate bill*

The Senate bill contains no comparable provision.

*Compromise agreement*

Section 404 includes technical and clarifying amendments to chapter 18 title 38, United States Code, including a provision to

provide benefits regardless of the veteran's type of discharge.

COMPENSATION AND PENSION MEDICAL EXAMINATIONS

*Current law*

Physicians employed by the Veterans Health Administration may conduct disability examinations of veterans who have applied for VA monetary benefits. Section 504 of Public Law 104-272 authorizes VA to conduct a pilot program involving use of physicians who provide such examinations under contract arrangements. VA is to report on its experience under such program by October 1999.

*House bill*

The House bill contains no provision changing current law.

*Senate bill*

Section 411 of S. 986 would add a new section 7704 to title 38, United States Code, which would authorize the Under Secretary for Benefits to reimburse the Under Secretary for Health for costs incurred in providing disability examinations.

*Compromise agreement*

The compromise bill contains no provision on this subject.

PERSONNEL POLICY

*Current law*

Section 711 of title 38, United States Code, requires the Secretary to report to Congress and delay for a specified period any systematic reduction in grade of employees engaged in direct patient care or who are professional employees and computer specialists.

*House bill*

Section 7 of H.R. 2206 would amend section 7425 of title 38, United States Code, to provide that Veterans Health Administration employees in positions involving the provision (or supervision) of patient care or the conduct of research are not subject to any reduction (required by law or Executive branch policy) in the number of percentage of employees or personnel positions within specified pay grades.

*Senate bill*

The Senate bill contains no comparable provisions.

*Compromise agreement*

The compromise bill contains no provision relating to this subject.

PURCHASES OF PHARMACEUTICAL PRODUCTS

*Current law*

The Federal Government, primarily through the General Services Administration, negotiates and awards contracts for products and services through federal supply schedules. The Government issues solicitations, receives offers from prospective vendors, negotiates with them on product and service prices, and award contracts. Such contracts give vendors the right to sell goods and services to the government during the period that the contract is in effect; federal agencies order products and services directly from a vendor and pay the vendor directly. Congress, by law, has authorized a variety of other entities, including certain Indian tribal governments, to make purchases from the federal supply schedule. The General Services Administration, which has responsibility for managing the federal supply schedules, has delegated responsibility for managing a number of such schedules, including the schedule for pharmaceuticals, to the Department of Veterans Affairs.

*House bill*

Section 8 of H.R. 2206 would amend section 8125 of title 38, United States Code, to provide that, notwithstanding any other provision of law, any product listed on the pharmaceutical Federal Supply Schedule may only be procured from that schedule by or for the federal government or any other entity specified in federal law or regulation as of July 1, 1997.

*Senate bill*

The Senate bill contains no similar provisions.

*Compromise agreement*

The compromise bill contains no provision relating to this subject.

## PARKING FEES

*Current law*

Section 8109(d)(1) requires the collection of parking fees (other than from veterans and volunteers) at VA health care facilities under specified circumstances.

*House bill*

The House bill contains no provision changing current law.

*Senate bill*

S. 309 would prohibit the collection of parking fees at VA parking facilities used in connection with a medical facility which is operated jointly under a health care resources sharing agreement with the Department of Defense.

*Compromise agreement*

The compromise bill contains no provision relating to this subject.

## SHARING OF HEALTH-CARE RESOURCES: SELLING

*Current law*

Under section 8153 of title 38, United States Code, VA may enter into agreements with any entity to sell health care resources. Section 8153(e) requires, as a precondition to VA's furnishing services to nonveterans under section, that VA make certain findings, including a determination "that veterans will receive priority under such an arrangement".

*House bill*

The House bill contains no provision changing current law.

*Senate bill*

Section 412(f) of S. 986 would amend section 8153(a)(3)(B) to strike the language regarding veterans receiving a priority under such an arrangement and substitute language to require a determination that "care to veterans will not be diminished as a result of such an arrangement".

*Compromise agreement*

The compromise bill contains no provision on this subject.

## CONSOLIDATION OF HOUSING LOAN REVOLVING FUNDS

*Current law*

Chapter 37 of title 38, United States Code, establishes the Direct Loan Revolving Fund, the Loan Guaranty Revolving Fund, and the Guaranty and Indemnity Fund at the Department of the Treasury for deposits and disbursements related to veterans' home loan guaranty and direct home loan programs.

*House bill*

The House bill contains no provision changing current law.

*Senate bill*

The Senate bill also contains no provision changing current law.

*Compromise agreement*

The compromise bill contains no provision on this subject.

## RECOUPMENT OF SPECIAL SEPARATION INCENTIVES

*Current law*

Section 1174 of title 10 authorizes the Secretary of Defense to pay a special separation bonus to active duty service members who have served between six and 20 years. Separation pay is based on length of service and base pay at the time of separation. This pay is subject to taxation.

Section 1174(h) of title 10 and section 5304 of title 38 requires the Secretary of Veterans Affairs to offset the amount of compensation paid to a veteran due to service connected disability by an amount equal to special separation incentives. Section 653 of Public Law 104-201 limited VA's recoupment on special separation incentives made on or after September 30, 1996 to the net amount after taxes.

*House bill*

The House bill contains no provision changing current law.

*Senate bill*

Section 431 of S. 986 would amend chapter 53 of title 38, to add a new provision limiting recoupment for any compensation paid after December 5, 1991 to 75 percent of the special separation pay.

*Compromise agreement*

The compromise bill contains no provision on this subject.

## ENHANCE STATE CEMETERY GRANT PROGRAM

*Current law*

Chapter 24 of title 38, United States Code, authorizes the Secretary of Veterans Affairs to provide grants to States to establish new veterans' cemeteries or to expand or improve existing veterans' cemeteries owned by the State. Under this authority, VA may grant up to 50 percent of the cost of the land and improvements to that land. If the State owns the land at the time of the grant, the value of the land may be counted for up to 50 percent of the State's contribution.

*House bill*

The House bill contains no provision changing current law.

*Senate bill*

Section 421 of S. 986 contains provisions to increase the VA share of the project costs for state veterans' cemeteries funded under the grant program. This provision would authorize the Secretary to grant up to 100 percent of the cost of improvements to the land to be purchased and up to 100 percent of the initial equipment costs. For existing cemeteries, the Secretary would be authorized to grant up to 100 percent of the cost of the improvements made to any additional land purchased for expansion or 100 percent of the cost of improvements to existing cemetery land.

*Compromise agreement*

The compromise bill contains no provision relating this subject.

Mr. EVANS. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. POSHARD].

Mr. POSHARD. Mr. Speaker, I rise in support of Senate bill 714, the Homeless Veterans Act.

Mr. STUMP. Mr. Speaker, I yield myself such time as I may consume. In closing, let me just say, as others have,

that we will be observing Veterans Day here in just of couple of days to honor all those who have served this Nation. I urge my colleagues to support this bill because it will provide meaningful and necessary improvements in many VA programs which serve our Nation's veterans.

Mr. TOWNS. Mr. Speaker, I am pleased to join my colleagues in supporting S. 714, a bill to extend the Native American Veterans Housing Loan Program. During my tenure as chairman of the Government Operations Subcommittee on Human Resources and Intergovernmental Relations, it was brought to my attention by several tribal governments, including the Navajo Nation, that their members had not been able to take advantage of this housing loan program. At that time, Veterans Administration Secretary, Jesse Brown, supported the extension of this program in order to make it available to a much larger number of native American veterans. While administration support for this program is certainly welcomed and it is vital to ensuring that the program is fully implemented, today, we have an opportunity to strengthen the housing loan program for native American veterans by giving it a legislative authorization until the year 2003.

In addition, Mr. Speaker, I join with my subcommittee chairman, the gentleman from Connecticut, CHRIS SHAYS, in praising the addition, in this bill, or authority for the Department to provide noninstitutional alternatives to nursing home care. Under the auspices of the House Government Reform and Oversight Subcommittee on Human Resources, Chairman SHAYS and I have been involved in numerous hearings related to the illnesses suffered by our Gulf War veterans. One of the critical elements in improving the quality of life for veterans suffering from these illnesses has been their ability to receive health care services outside of the traditional V.A. hospital and nursing home setting. Hopefully, this authority will enable the Department to provide not only alternative forms of treatment for our Nation's veterans but to also open up new avenues for research that were heretofore unavailable.

Mr. Speaker, S. 714 provides new authority to the V.A. I believe these programs will enhance V.A. housing programs for native American veterans and improve the quality of home care treatment for our veterans. I would urge my colleagues to join us in supporting this measure.

Mrs. MINK of Hawaii. Mr. Speaker, I rise to express my support for S. 714, extending and improving the Native American Veteran Housing Loan Pilot Program, Homeless Veterans Programs, and other authorities of the Secretary of Veterans Affairs.

The Native American Veteran Housing Loan Pilot Program authorizes the Secretary of Veterans Affairs to make direct housing loans to qualified Native American Veterans. S. 714 will extend the authority of this program for an additional six years, until December 2003.

The bill contains a provision that would be of particular interest to a portion of my constituency in Hawaii, Native Hawaiian Veterans. The bill extends authority of outreach activities under the Native American Veteran Housing

Loan Pilot Program to conferences and conventions conducted by the Department of Hawaiian Homelands. This provision authorizes needed assistance in educating Native Hawaiian Veterans of the availability of these special direct housing loans.

S. 714 also extends the authorization of a number of valuable veterans health care activities and activities that serve the homeless veterans including: Noninstitutional Alternatives to Nursing Home Care Pilot Program; Health Professional Scholarship Program; Drug and alcohol abuse and dependence programs; Housing assistance for Homeless Veterans; Community-Based Residential Care for Homeless Chronically Mentally Ill Veterans; A Demonstration Program of Compensated Work Therapy; Services and Assistance to Homeless Veterans; and Homeless Veterans' Reintegration Projects.

These programs will help provide for the many needs of our veteran population.

Passage of legislation extending such important veterans programs would be a proper way to begin a week of honoring our Veterans and I urge the immediate passage of S. 714.

Mr. STUMP. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. LATHAM). The question is on the motion offered by the gentleman from Arizona [Mr. STUMP] that the House suspend the rules and pass the Senate bill, S. 714, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

The title of the Senate bill was amended so as to read: "An Act to amend title 38, United States Code, to revise, extend, and improve programs for veterans."

A motion to reconsider was laid on the table.

#### ANNOUNCEMENT OF LEGISLATION TO BE CONSIDERED UNDER SUSPENSION OF THE RULES TODAY

Mr. TALENT. Mr. Speaker, earlier today it was announced that the Committee on Transportation and Infrastructure would bring to the floor H.R. 2834, Cleveland Airport Transfer. It is now expected that the committee will bring up the Senate version, S. 1347.

#### SMALL BUSINESS REAUTHORIZATION ACT OF 1997

Mr. TALENT. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the House amendment to the Senate bill, S. 1139, to reauthorize the programs of the Small Business Administration, and for other purposes.

The Clerk read as follows:

Senate amendment to House amendment:

In lieu of the matter proposed to be inserted by the House amendment to the text of the bill, insert:

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) *SHORT TITLE.*—This Act may be cited as the "Small Business Reauthorization Act of 1997".

(b) *TABLE OF CONTENTS.*—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

Sec. 3. Effective date.

#### TITLE I—AUTHORIZATIONS

Sec. 101. Authorizations.

#### TITLE II—FINANCIAL ASSISTANCE

##### Subtitle A—Microloan Program

Sec. 201. Microloan program.

Sec. 202. Welfare-to-work microloan initiative.

##### Subtitle B—Small Business Investment Company Program

Sec. 211. 5-year commitments for SBICs at option of Administrator.

Sec. 212. Underserved areas.

Sec. 213. Private capital.

Sec. 214. Fees.

Sec. 215. Small business investment company program reform.

Sec. 216. Examination fees.

##### Subtitle C—Certified Development Company Program

Sec. 221. Loans for plant acquisition, construction, conversion, and expansion.

Sec. 222. Development company debentures.

Sec. 223. Premier certified lenders program.

##### Subtitle D—Miscellaneous Provisions

Sec. 231. Background check of loan applicants.

Sec. 232. Report on increased lender approval, servicing, foreclosure, liquidation, and litigation of section 7(a) loans.

Sec. 233. Completion of planning for loan monitoring system.

#### TITLE III—WOMEN'S BUSINESS ENTERPRISES

Sec. 301. Interagency committee participation.

Sec. 302. Reports.

Sec. 303. Council duties.

Sec. 304. Council membership.

Sec. 305. Authorization of appropriations.

Sec. 306. National Women's Business Council procurement project.

Sec. 307. Studies and other research.

Sec. 308. Women's business centers.

#### TITLE IV—COMPETITIVENESS PROGRAM AND PROCUREMENT OPPORTUNITIES

##### Subtitle A—Small Business Competitiveness Program

Sec. 401. Program term.

Sec. 402. Monitoring agency performance.

Sec. 403. Reports to Congress.

Sec. 404. Small business participation in dredging.

Sec. 405. Technical amendments.

##### Subtitle B—Small Business Procurement Opportunities Program

Sec. 411. Contract bundling.

Sec. 412. Definition of contract bundling.

Sec. 413. Assessing proposed contract bundling.

Sec. 414. Reporting of bundled contract opportunities.

Sec. 415. Evaluating subcontract participation in awarding contracts.

Sec. 416. Improved notice of subcontracting opportunities.

Sec. 417. Deadlines for issuance of regulations.

#### TITLE V—MISCELLANEOUS PROVISIONS

Sec. 501. Small Business Technology Transfer program.

Sec. 502. Small Business Development Centers.

Sec. 503. Pilot preferred surety bond guarantee program extension.

Sec. 504. Extension of cosponsorship authority.

Sec. 505. Asset sales.

Sec. 506. Small business export promotion.

Sec. 507. Defense Loan and Technical Assistance program.

Sec. 508. Very small business concerns.

Sec. 509. Trade assistance program for small business concerns adversely affected by NAFTA.

#### TITLE VI—HUBZONE PROGRAM

Sec. 601. Short title.

Sec. 602. Historically underutilized business zones.

Sec. 603. Technical and conforming amendments to the Small Business Act.

Sec. 604. Other technical and conforming amendments.

Sec. 605. Regulations.

Sec. 606. Report.

Sec. 607. Authorization of appropriations.

#### TITLE VII—SERVICE DISABLED VETERANS

Sec. 701. Purposes.

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Sec. 707. Entrepreneurial training, counseling, and management assistance.

Sec. 708. Grants for eligible veterans' outreach programs.

Sec. 709. Outreach for eligible veterans.

#### SEC. 2. DEFINITIONS.

In this Act—

(1) the term "Administration" means the Small Business Administration;

(2) the term "Administrator" means the Administrator of the Small Business Administration;

(3) the term "Committees" means the Committees on Small Business of the House of Representatives and the Senate; and

(4) the term "small business concern" has the meaning given the term in section 3 of the Small Business Act (15 U.S.C. 632).

#### SEC. 3. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect on October 1, 1997.

#### TITLE I—AUTHORIZATIONS

##### SEC. 101. AUTHORIZATIONS.

Section 20 of the Small Business Act (15 U.S.C. 631 note) is amended by striking subsections (c) through (g) and inserting the following:

"(c) FISCAL YEAR 1998.—

"(1) PROGRAM LEVELS.—The following program levels are authorized for fiscal year 1998:

"(A) For the programs authorized by this Act, the Administration is authorized to make—

"(i) \$40,000,000 in technical assistance grants, as provided in section 7(m); and

"(ii) \$60,000,000 in direct loans, as provided in section 7(m).

"(B) For the programs authorized by this Act, the Administration is authorized to make \$16,040,000,000 in deferred participation loans and other financings. Of such sum, the Administration is authorized to make—

"(i) \$12,000,000,000 in general business loans as provided in section 7(a);

"(ii) \$3,000,000,000 in financings as provided in section 7(a)(13) of this Act and section 504 of the Small Business Investment Act of 1958;

"(iii) \$1,000,000,000 in loans as provided in section 7(a)(21); and

"(iv) \$40,000,000 in loans as provided in section 7(m).

"(C) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make—

"(i) \$700,000,000 in purchases of participating securities; and

"(ii) \$600,000,000 in guarantees of debentures.

"(D) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed \$2,000,000,000, of which not more than \$650,000,000 may be in bonds approved pursuant to section 411(a)(3) of that Act.

"(E) The Administration is authorized to make grants or enter into cooperative agreements—

"(i) for the Service Corps of Retired Executives program authorized by section 8(b)(1), \$4,000,000; and

"(ii) for activities of small business development centers pursuant to section 21(c)(3)(G), \$15,000,000, to remain available until expended.

"(2) ADDITIONAL AUTHORIZATIONS.—

"(A) There are authorized to be appropriated to the Administration for fiscal year 1998 such sums as may be necessary to carry out this Act, including administrative expenses and necessary loan capital for disaster loans pursuant to section 7(b), and to carry out the Small Business Investment Act of 1958, including salaries and expenses of the Administration.

"(B) Notwithstanding subparagraph (A), for fiscal year 1998—

"(i) no funds are authorized to be provided to carry out the loan program authorized by section 7(a)(21) except by transfer from another Federal department or agency to the Administration, unless the program level authorized for general business loans under paragraph (1)(B)(i) is fully funded; and

"(ii) the Administration may not approve loans on behalf of the Administration or on behalf of any other department or agency, by contract or otherwise, under terms and conditions other than those specifically authorized under this Act or the Small Business Investment Act of 1958, except that it may approve loans under section 7(a)(21) of this Act in gross amounts of not more than \$1,250,000.

"(d) FISCAL YEAR 1999.—

"(1) PROGRAM LEVELS.—The following program levels are authorized for fiscal year 1999:

"(A) For the programs authorized by this Act, the Administration is authorized to make—

"(i) \$40,000,000 in technical assistance grants as provided in section 7(m); and

"(ii) \$60,000,000 in direct loans, as provided in section 7(m).

"(B) For the programs authorized by this Act, the Administration is authorized to make \$17,540,000,000 in deferred participation loans and other financings. Of such sum, the Administration is authorized to make—

"(i) \$13,000,000,000 in general business loans as provided in section 7(a);

"(ii) \$3,500,000,000 in financings as provided in section 7(a)(13) of this Act and section 504 of the Small Business Investment Act of 1958;

"(iii) \$1,000,000,000 in loans as provided in section 7(a)(21); and

"(iv) \$40,000,000 in loans as provided in section 7(m).

"(C) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make—

"(i) \$800,000,000 in purchases of participating securities; and

"(ii) \$700,000,000 in guarantees of debentures.

"(D) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed \$2,000,000,000, of which not more than \$650,000,000 may be in bonds approved pursuant to section 411(a)(3) of that Act.

"(E) The Administration is authorized to make grants or enter into cooperative agreements—

"(i) for the Service Corps of Retired Executives program authorized by section 8(b)(1), \$4,500,000; and

"(ii) for activities of small business development centers pursuant to section 21(c)(3)(G), not to exceed \$15,000,000, to remain available until expended.

"(2) ADDITIONAL AUTHORIZATIONS.—

"(A) There are authorized to be appropriated to the Administration for fiscal year 1999 such sums as may be necessary to carry out this Act, including administrative expenses and necessary loan capital for disaster loans pursuant to section 7(b), and to carry out the Small Business Investment Act of 1958, including salaries and expenses of the Administration.

"(B) Notwithstanding subparagraph (A), for fiscal year 1999—

"(i) no funds are authorized to be provided to carry out the loan program authorized by section 7(a)(21) except by transfer from another Federal department or agency to the Administration, unless the program level authorized for general business loans under paragraph (1)(B)(i) is fully funded; and

"(ii) the Administration may not approve loans on behalf of the Administration or on behalf of any other department or agency, by contract or otherwise, under terms and conditions other than those specifically authorized under this Act or the Small Business Investment Act of 1958, except that it may approve loans under section 7(a)(21) of this Act in gross amounts of not more than \$1,250,000.

"(e) FISCAL YEAR 2000.—

"(1) PROGRAM LEVELS.—The following program levels are authorized for fiscal year 2000:

"(A) For the programs authorized by this Act, the Administration is authorized to make—

"(i) \$40,000,000 in technical assistance grants as provided in section 7(m); and

"(ii) \$60,000,000 in direct loans, as provided in section 7(m).

"(B) For the programs authorized by this Act, the Administration is authorized to make \$20,040,000,000 in deferred participation loans and other financings. Of such sum, the Administration is authorized to make—

"(i) \$14,500,000,000 in general business loans as provided in section 7(a);

"(ii) \$4,500,000,000 in financings as provided in section 7(a)(13) of this Act and section 504 of the Small Business Investment Act of 1958;

"(iii) \$1,000,000,000 in loans as provided in section 7(a)(21); and

"(iv) \$40,000,000 in loans as provided in section 7(m).

"(C) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make—

"(i) \$900,000,000 in purchases of participating securities; and

"(ii) \$800,000,000 in guarantees of debentures.

"(D) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed \$2,000,000,000, of which not more than \$650,000,000 may be in bonds approved pursuant to section 411(a)(3) of that Act.

"(E) The Administration is authorized to make grants or enter into cooperative agreements—

"(i) for the Service Corps of Retired Executives program authorized by section 8(b)(1), \$5,000,000; and

"(ii) for activities of small business development centers pursuant to section 21(c)(3)(G), not to exceed \$15,000,000, to remain available until expended.

"(2) ADDITIONAL AUTHORIZATIONS.—

"(A) There are authorized to be appropriated to the Administration for fiscal year 2000 such sums as may be necessary to carry out this Act, including administrative expenses and necessary loan capital for disaster loans pursuant to section 7(b), and to carry out the Small Business Investment Act of 1958, including salaries and expenses of the Administration.

"(B) Notwithstanding subparagraph (A), for fiscal year 2000—

"(i) no funds are authorized to be provided to carry out the loan program authorized by section 7(a)(21) except by transfer from another Federal department or agency to the Administration, unless the program level authorized for general business loans under paragraph (1)(B)(i) is fully funded; and

"(ii) the Administration may not approve loans on behalf of the Administration or on behalf of any other department or agency, by contract or otherwise, under terms and conditions other than those specifically authorized under this Act or the Small Business Investment Act of 1958, except that it may approve loans under section 7(a)(21) of this Act in gross amounts of not more than \$1,250,000."

**TITLE II—FINANCIAL ASSISTANCE**

**Subtitle A—Microloan Program**

**SEC. 201. MICROLOAN PROGRAM.**

(a) LOAN LIMITS.—Section 7(m)(3)(C) of the Small Business Act (15 U.S.C. 636(m)(3)(C)) is amended by striking "\$2,500,000" and inserting "\$3,500,000".

(b) LOAN LOSS RESERVE FUND.—Section 7(m)(3)(D) of the Small Business Act (15 U.S.C. 636(m)(3)(D)) is amended by striking clauses (i) and (ii), and inserting the following:

"(i) during the initial 5 years of the intermediary's participation in the program under this subsection, at a level equal to not more than 15 percent of the outstanding balance of the notes receivable owed to the intermediary; and

"(ii) in each year of participation thereafter, at a level equal to not more than the greater of—

"(I) 2 times an amount reflecting the total losses of the intermediary as a result of participation in the program under this subsection, as determined by the Administrator on a case-by-case basis; or

"(II) 10 percent of the outstanding balance of the notes receivable owed to the intermediary."

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 7(m) of the Small Business Act (15 U.S.C. 636(m)) is amended—

(1) in the subsection heading, by striking "DEMONSTRATION";

(2) by striking "Demonstration" each place that term appears;

(3) by striking "demonstration" each place that term appears; and

(4) in paragraph (12), by striking "during fiscal years 1995 through 1997" and inserting "during fiscal years 1998 through 2000".

(d) TECHNICAL ASSISTANCE GRANTS.—Section 7(m) of the Small Business Act (15 U.S.C. 636(m)) is amended—

(1) in paragraph (4)(E)—

(A) by striking "Each intermediary" and inserting the following:

"(i) IN GENERAL.—Each intermediary";

(B) by striking "15" and inserting "25"; and

(C) by adding at the end the following:

"(ii) TECHNICAL ASSISTANCE.—An intermediary may expend not more than 25 percent of the funds received under paragraph (1)(B)(ii) to enter into third party contracts for the provision of technical assistance."; and

(2) in paragraph (5)(A)—

(A) by striking "in each of the 5 years of the demonstration program established under this subsection,"; and

(B) by striking "for terms of up to 5 years" and inserting "annually".

**SEC. 202. WELFARE-TO-WORK MICROLOAN INITIATIVE.**

(a) INITIATIVE.—Section 7(m) of the Small Business Act (15 U.S.C. 636(m)) is amended—

(1) in paragraph (1)(A)—

(A) in clause (ii), by striking "and" at the end;

(B) in clause (iii), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(iv) to establish a welfare-to-work microloan initiative, which shall be administered by the Administration, in order to test the feasibility of supplementing the technical assistance grants provided under clauses (ii) and (iii) of subparagraph (B) to individuals who are receiving assistance under the State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), or under any comparable State funded means tested program of assistance for low-income individuals, in order to adequately assist those individuals in—

“(I) establishing small businesses; and

“(II) eliminating their dependence on that assistance.”;

(2) in paragraph (4), by adding at the end the following:

“(F) SUPPLEMENTAL GRANT.—

“(i) IN GENERAL.—The Administration may accept any funds transferred to the Administration from other departments or agencies of the Federal Government to make grants in accordance with this subparagraph and section 202(b) of the Small Business Reauthorization Act of 1997 to participating intermediaries and technical assistance providers under paragraph (5), for use in accordance with clause (iii) to provide additional technical assistance and related services to recipients of assistance under a State program described in paragraph (1)(A)(iv) at the time they initially apply for assistance under this subparagraph.

“(ii) ELIGIBLE RECIPIENTS; GRANT AMOUNTS.—In making grants under this subparagraph, the Administration may select, from among participating intermediaries and technical assistance providers described in clause (i), not more than 20 grantees in fiscal year 1998, not more than 25 grantees in fiscal year 1999, and not more than 30 grantees in fiscal year 2000, each of whom may receive a grant under this subparagraph in an amount not to exceed \$200,000 per year.

“(iii) USE OF GRANT AMOUNTS.—Grants under this subparagraph—

“(I) are in addition to other grants provided under this subsection and shall not require the contribution of matching amounts as a condition of eligibility; and

“(II) may be used by a grantee—

“(aa) to pay or reimburse a portion of child care and transportation costs of recipients of assistance described in clause (i), to the extent such costs are not otherwise paid by State block grants under the Child Care Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.) or under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.); and

“(bb) for marketing, management, and technical assistance to recipients of assistance described in clause (i).

“(iv) MEMORANDUM OF UNDERSTANDING.—Prior to accepting any transfer of funds under clause (i) from a department or agency of the Federal Government, the Administration shall enter into a Memorandum of Understanding with the department or agency, which shall—

“(I) specify the terms and conditions of the grants under this subparagraph; and

“(II) provide for appropriate monitoring of expenditures by each grantee under this subparagraph and each recipient of assistance described in clause (i) who receives assistance from a grantee under this subparagraph, in order to ensure compliance with this subparagraph by those grantees and recipients of assistance.”;

(3) in paragraph (6), by adding at the end the following:

“(E) ESTABLISHMENT OF CHILD CARE OR TRANSPORTATION BUSINESSES.—In addition to other eligible small businesses concerns, borrowers under any program under this subsection

may include individuals who will use the loan proceeds to establish for-profit or nonprofit child care establishments or businesses providing for-profit transportation services.”;

(4) in paragraph (9)—

(A) by striking the paragraph designation and paragraph heading and inserting the following:

“(9) GRANTS FOR MANAGEMENT, MARKETING, TECHNICAL ASSISTANCE, AND RELATED SERVICES.—”; and

(B) by adding at the end the following:

“(C) WELFARE-TO-WORK MICROLOAN INITIATIVE.—Of amounts made available to carry out the welfare-to-work microloan initiative under paragraph (1)(A)(iv) in any fiscal year, the Administration may use not more than 5 percent to provide technical assistance, either directly or through contractors, to welfare-to-work microloan initiative grantees, to ensure that, as grantees, they have the knowledge, skills, and understanding of microlending and welfare-to-work transition, and other related issues, to operate a successful welfare-to-work microloan initiative.”; and

(5) by adding at the end the following:

“(13) EVALUATION OF WELFARE-TO-WORK MICROLOAN INITIATIVE.—On January 31, 1999, and annually thereafter, the Administration shall submit to the Committees on Small Business of the House of Representatives and the Senate a report on any monies distributed pursuant to paragraph (4)(F).”.

(b) TRANSFER OF FUNDS.—

(1) IN GENERAL.—No funds are authorized to be appropriated or otherwise provided to carry out the grant program under section 7(m)(4)(F) of the Small Business Act (15 U.S.C. 636(m)(4)(F)) (as added by this section), except by transfer from another department or agency of the Federal Government to the Administration in accordance with this subsection.

(2) LIMITATION ON AMOUNTS.—The total amount transferred to the Administration from other departments and agencies of the Federal Government to carry out the grant program under section 7(m)(4)(F) of the Small Business Act (15 U.S.C. 636(m)(4)(F)) (as added by this section) shall not exceed—

(A) \$3,000,000 for fiscal year 1998;

(B) \$4,000,000 for fiscal year 1999; and

(C) \$5,000,000 for fiscal year 2000.

#### Subtitle B—Small Business Investment Company Program

##### SEC. 211. 5-YEAR COMMITMENTS FOR SBICs AT OPTION OF ADMINISTRATOR.

Section 20(a)(2) of the Small Business Act (15 U.S.C. 631 note) is amended in the last sentence by striking “the following fiscal year” and inserting “any 1 or more of the 4 subsequent fiscal years”.

##### SEC. 212. UNDERSERVED AREAS.

Section 301(c)(4)(B) of the Small Business Investment Act of 1958 (15 U.S.C. 681(c)(4)(B)) is amended to read as follows:

“(B) LEVERAGE.—An applicant licensed pursuant to the exception provided in this paragraph shall not be eligible to receive leverage as a licensee until the applicant satisfies the requirements of section 302(a), unless the applicant—

“(i) files an application for a license not later than 180 days after the date of enactment of the Small Business Reauthorization Act of 1997;

“(ii) is located in a State that is not served by a licensee; and

“(iii) agrees to be limited to 1 tier of leverage available under section 302(b), until the applicant meets the requirements of section 302(a).”.

##### SEC. 213. PRIVATE CAPITAL.

Section 103(9)(B)(iii) of the Small Business Investment Act of 1958 (15 U.S.C. 662(9)(B)(iii)) is amended—

(1) by redesignating subclauses (I) and (II) as subclauses (II) and (III), respectively; and

(2) by inserting before subclause (II) (as redesignated) the following:

“(I) funds obtained from the business revenues (excluding any governmental appropriation) of any federally chartered or government-sponsored corporation established prior to October 1, 1987.”.

##### SEC. 214. FEES.

Section 301 of the Small Business Investment Act of 1958 (15 U.S.C. 681) is amended by adding at the end the following:

“(e) FEES.—

“(1) IN GENERAL.—The Administration may prescribe fees to be paid by each applicant for a license to operate as a small business investment company under this Act.

“(2) USE OF AMOUNTS.—Fees collected under this subsection—

“(A) shall be deposited in the account for salaries and expenses of the Administration; and

“(B) are authorized to be appropriated solely to cover the costs of licensing examinations.”.

##### SEC. 215. SMALL BUSINESS INVESTMENT COMPANY PROGRAM REFORM.

(a) BANK INVESTMENTS.—Section 302(b) of the Small Business Investment Act of 1958 (15 U.S.C. 682(b)) is amended by striking “1956,” and all that follows before the period and inserting the following: “1956, any national bank, or any member bank of the Federal Reserve System or nonmember insured bank to the extent permitted under applicable State law, may invest in any 1 or more small business investment companies, or in any entity established to invest solely in small business investment companies, except that in no event shall the total amount of such investments of any such bank exceed 5 percent of the capital and surplus of the bank”.

(b) INDEXING FOR LEVERAGE.—Section 303 of the Small Business Investment Act of 1958 (15 U.S.C. 683) is amended—

(1) in subsection (b)—

(A) in paragraph (2), by adding at the end the following:

“(D)(i) The dollar amounts in subparagraphs (A), (B), and (C) shall be adjusted annually to reflect increases in the Consumer Price Index established by the Bureau of Labor Statistics of the Department of Labor.

“(ii) The initial adjustments made under this subparagraph after the date of enactment of the Small Business Reauthorization Act of 1997 shall reflect only increases from March 31, 1993.”; and

(B) by striking paragraph (4) and inserting the following:

“(4) MAXIMUM AGGREGATE AMOUNT OF LEVERAGE.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the aggregate amount of outstanding leverage issued to any company or companies that are commonly controlled (as determined by the Administrator) may not exceed \$90,000,000, as adjusted annually for increases in the Consumer Price Index.

“(B) EXCEPTIONS.—The Administrator may, on a case-by-case basis—

“(i) approve an amount of leverage that exceeds the amount described in subparagraph (A) for companies under common control; and

“(ii) impose such additional terms and conditions as the Administrator determines to be appropriate to minimize the risk of loss to the Administration in the event of default.

“(C) APPLICABILITY OF OTHER PROVISIONS.—Any leverage that is issued to a company or companies commonly controlled in an amount that exceeds \$90,000,000, whether as a result of an increase in the Consumer Price Index or a decision of the Administrator, is subject to subsection (d).”; and

(2) by striking subsection (d) and inserting the following:

“(d) REQUIRED CERTIFICATIONS.—

"(1) IN GENERAL.—The Administrator shall require each licensee, as a condition of approval of an application for leverage, to certify in writing—

"(A) for licensees with leverage less than or equal to \$90,000,000, that not less than 20 percent of the licensee's aggregate dollar amount of financings will be provided to smaller enterprises; and

"(B) for licensees with leverage in excess of \$90,000,000, that, in addition to satisfying the requirements of subparagraph (A), 100 percent of the licensee's aggregate dollar amount of financings made in whole or in part with leverage in excess of \$90,000,000 will be provided to smaller enterprises (as defined in section 103(12)).

"(2) MULTIPLE LICENSEES.—Multiple licensees under common control (as determined by the Administrator) shall be considered to be a single licensee for purposes of determining both the applicability of and compliance with the investment percentage requirements of this subsection."

(C) TAX DISTRIBUTIONS.—Section 303(g)(8) of the Small Business Investment Act of 1958 (15 U.S.C. 683(g)(8)) is amended by adding at the end the following: "A company may also elect to make a distribution under this paragraph at the end of any calendar quarter based on a quarterly estimate of the maximum tax liability. If a company makes 1 or more quarterly distributions for a calendar year, and the aggregate amount of those distributions exceeds the maximum amount that the company could have distributed based on a single annual computation, any subsequent distribution by the company under this paragraph shall be reduced by an amount equal to the excess amount distributed."

(d) LEVERAGE FEE.—Section 303(i) of the Small Business Investment Act of 1958 (15 U.S.C. 683(i)) is amended by striking "payable upon" and all that follows before the period and inserting the following: "in the following manner: 1 percent upon the date on which the Administration enters into any commitment for such leverage with the licensee, and the balance of 2 percent (or 3 percent if no commitment has been entered into by the Administration) on the date on which the leverage is drawn by the licensee".

(e) PERIODIC ISSUANCE OF GUARANTEES AND TRUST CERTIFICATES.—Section 320 of the Small Business Investment Act of 1958 (15 U.S.C. 687m) is amended by striking "three months" and inserting "6 months".

#### SEC. 216. EXAMINATION FEES.

Section 310(b) of the Small Business Investment Act of 1958 (15 U.S.C. 687b(b)) is amended by inserting after the first sentence the following: "Fees collected under this subsection shall be deposited in the account for salaries and expenses of the Administration, and are authorized to be appropriated solely to cover the costs of examinations and other program oversight activities."

#### Subtitle C—Certified Development Company Program

#### SEC. 221. LOANS FOR PLANT ACQUISITION, CONSTRUCTION, CONVERSION, AND EXPANSION.

Section 502 of the Small Business Investment Act of 1958 (15 U.S.C. 696) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) USE OF PROCEEDS.—The proceeds of any such loan shall be used solely by the borrower to assist 1 or more identifiable small business concerns and for a sound business purpose approved by the Administration."

(2) in paragraph (3), by adding at the end the following:

"(D) SELLER FINANCING.—Seller-provided financing may be used to meet the requirements

of subparagraph (B), if the seller subordinates the interest of the seller in the property to the debenture guaranteed by the Administration.

"(E) COLLATERALIZATION.—The collateral provided by the small business concern shall generally include a subordinate lien position on the property being financed under this title, and is only 1 of the factors to be evaluated in the credit determination. Additional collateral shall be required only if the Administration determines, on a case by case basis, that additional security is necessary to protect the interest of the Government."; and

(3) by adding at the end the following:

"(5) LIMITATION ON LEASING.—In addition to any portion of the project permitted to be leased under paragraph (4), not to exceed 20 percent of the project may be leased by the assisted small business to 1 or more other tenants, if the assisted small business occupies permanently and uses not less than a total of 60 percent of the space in the project after the execution of any leases authorized under this section."

#### SEC. 222. DEVELOPMENT COMPANY DEBENTURES.

Section 503 of the Small Business Investment Act of 1958 (15 U.S.C. 697) is amended—

(1) in subsection (b)(7), by striking subparagraph (A) and inserting the following:

"(A) assesses and collects a fee, which shall be payable by the borrower, in an amount established annually by the Administration, which amount shall not exceed the lesser of—

"(i) 0.9375 percent per year of the outstanding balance of the loan; and

"(ii) the minimum amount necessary to reduce the cost (as defined in section 502 of the Federal Credit Reform Act of 1990) to the Administration of purchasing and guaranteeing debentures under this Act to zero; and"; and

(2) in subsection (f), by striking "1997" and inserting "2000".

#### SEC. 223. PREMIER CERTIFIED LENDERS PROGRAM.

(a) IN GENERAL.—Section 508 of the Small Business Investment Act of 1958 (15 U.S.C. 697e) is amended—

(1) in subsection (a), by striking "not more than 15";

(2) in subsection (b)—

(A) in paragraph (2)—

(i) in the matter preceding subparagraph (A), by striking "if such company";

(ii) by striking subparagraphs (A) and (B) and inserting the following:

"(A) if the company is an active certified development company in good standing and has been an active participant in the accredited lenders program during the entire 12-month period preceding the date on which the company submits an application under paragraph (1), except that the Administration may waive this requirement if the company is qualified to participate in the accredited lenders program;

"(B) if the company has a history of—

"(i) submitting to the Administration adequately analyzed debenture guarantee application packages; and

"(ii) of properly closing section 504 loans and servicing its loan portfolio;";

(iii) in subparagraph (C)—

(1) by inserting "if the company" after "(C)"; and

(II) by striking the period at the end and inserting "and"; and

(iv) by adding at the end the following:

"(D) the Administrator determines, with respect to the company, that the loss reserve established in accordance with subsection (c)(2) is sufficient for the company to meet its obligations to protect the Federal Government from risk of loss."; and

(B) by adding at the end the following:

"(3) APPLICABILITY OF CRITERIA AFTER DESIGNATION.—The Administrator may revoke the

designation of a certified development company as a premier certified lender under this section at any time, if the Administrator determines that the certified development company does not meet any requirement described in subparagraphs (A) through (D) of paragraph (2).";

(3) by striking subsection (c) and inserting the following:

"(c) LOSS RESERVE.—

"(1) ESTABLISHMENT.—A company designated as a premier certified lender shall establish a loss reserve for financing approved pursuant to this section.

"(2) AMOUNT.—The amount of each loss reserve established under paragraph (1) shall be 10 percent of the amount of the company's exposure, as determined under subsection (b)(2)(C).

"(3) ASSETS.—Each loss reserve established under paragraph (1) shall be comprised of—

"(A) segregated funds on deposit in an account or accounts with a federally insured depository institution or institutions selected by the company, subject to a collateral assignment in favor of, and in a format acceptable to, the Administration;

"(B) irrevocable letter or letters of credit, with a collateral assignment in favor of, and a commercially reasonable format acceptable to, the Administration; or

"(C) any combination of the assets described in subparagraphs (A) and (B).

"(4) CONTRIBUTIONS.—The company shall make contributions to the loss reserve, either cash or letters of credit as provided above, in the following amounts and at the following intervals:

"(A) 50 percent when a debenture is closed.

"(B) 25 percent additional not later than 1 year after a debenture is closed.

"(C) 25 percent additional not later than 2 years after a debenture is closed.

"(5) REPLENISHMENT.—If a loss has been sustained by the Administration, any portion of the loss reserve, and other funds provided by the premier company as necessary, may be used to reimburse the Administration for the premier company's 10 percent share of the loss as provided in subsection (b)(2)(C). If the company utilizes the reserve, within 30 days it shall replace an equivalent amount of funds.

"(6) DISBURSEMENTS.—The Administration shall allow the certified development company to withdraw from the loss reserve amounts attributable to any debenture that has been repaid."

(4) in subsection (d)(1), by striking "to approve loans" and inserting "to approve, authorize, close, service, foreclose, litigate (except that the Administration may monitor the conduct of any such litigation to which a premier certified lender is a party), and liquidate loans";

(5) in subsection (f), by striking "State or local" and inserting "certified";

(6) in subsection (g), by striking the subsection heading and inserting the following:

"(g) EFFECT OF SUSPENSION OR REVOCATION.—

"(7) by striking subsection (h) and inserting the following:

"(h) PROGRAM GOALS.—Each certified development company participating in the program under this section shall establish a goal of processing a minimum of not less than 50 percent of the loan applications for assistance under section 504 pursuant to the program authorized under this section."; and

(8) in subsection (i), by striking "other lenders" and inserting "other lenders, specifically comparing default rates and recovery rates on liquidations";

(b) REGULATIONS.—The Administrator shall—

(1) not later than 150 days after the date of enactment of this Act, promulgate regulations to carry out the amendments made by subsection (a); and

(2) not later than 180 days after the date of enactment of this Act, issue program guidelines and fully implement the amendments made by subsection (a).

(c) PROGRAM EXTENSION.—Section 217(b) of the Small Business Reauthorization and Amendments Act of 1994 (15 U.S.C. 697e note) is amended by striking "October 1, 1997" and inserting "October 1, 2000".

#### Subtitle D—Miscellaneous Provisions

##### SEC. 231. BACKGROUND CHECK OF LOAN APPLICANTS.

Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended—

(1) by striking "(a) The Administration" and inserting the following:

"(a) LOANS TO SMALL BUSINESS CONCERNS; ALLOWABLE PURPOSES; QUALIFIED BUSINESS; RESTRICTIONS AND LIMITATIONS.—The Administration"; and

(2) in paragraph (1)—

(A) by striking "(1) No financial" and inserting the following:

"(1) IN GENERAL.—

"(A) CREDIT ELSEWHERE.—No financial"; and

(B) by adding at the end the following:

"(B) BACKGROUND CHECKS.—Prior to the approval of any loan made pursuant to this subsection, or section 503 of the Small Business Investment Act of 1958, the Administrator may verify the applicant's criminal background, or lack thereof, through the best available means, including, if possible, use of the National Crime Information Center computer system at the Federal Bureau of Investigation."

##### SEC. 232. REPORT ON INCREASED LENDER APPROVAL, SERVICING, FORECLOSURE, LIQUIDATION, AND LITIGATION OF SECTION 7(a) LOANS.

(a) IN GENERAL.—

(1) SUBMISSION.—Not later than 6 months after the date of enactment of this Act, the Administrator shall submit to the Committees a report on action taken and planned for future reliance on private sector lender resources to originate, approve, close, service, liquidate, foreclose, and litigate loans made under section 7(a) of the Small Business Act.

(2) CONTENTS.—The report under this subsection shall address administrative and other steps necessary to achieve the results described in paragraph (1), including—

(A) streamlining the process for approving lenders and standardizing requirements;

(B) establishing uniform reporting requirements using on-line automated capabilities to the maximum extent feasible;

(C) reducing paperwork through automation, simplified forms, or incorporation of lender's forms;

(D) providing uniform standards for approval, closing, servicing, foreclosure, and liquidation;

(E) promulgating new regulations or amending existing ones;

(F) establishing a timetable for implementing the plan for reliance on private sector lenders;

(G) implementing organizational changes at SBA; and

(H) estimating the annual savings that would occur as a result of implementation.

(b) CONSULTATION.—In preparing the report under subsection (a), the Administrator shall consult with, among others—

(1) borrowers and lenders under section 7(a) of the Small Business Act;

(2) small businesses that are potential program participants under section 7(a) of the Small Business Act;

(3) financial institutions that are potential program lenders under section 7(a) of the Small Business Act; and

(4) representative industry associations.

##### SEC. 233. COMPLETION OF PLANNING FOR LOAN MONITORING SYSTEM.

(a) IN GENERAL.—The Administrator shall perform and complete the planning needed to serve

as the basis for funding the development and implementation of the computerized loan monitoring system, including—

(1) fully defining the system requirement using on-line, automated capabilities to the extent feasible;

(2) identifying all data inputs and outputs necessary for timely report generation;

(3) benchmark loan monitoring business processes and systems against comparable industry processes and, if appropriate, simplify or redefine work processes based on these benchmarks;

(4) determine data quality standards and control systems for ensuring information accuracy;

(5) identify an acquisition strategy and work increments to completion;

(6) analyze the benefits and costs of alternatives and use to demonstrate the advantage of the final project;

(7) ensure that the proposed information system is consistent with the agency's information architecture; and

(8) estimate the cost to system completion, identifying the essential cost element.

(b) REPORT.—

(1) IN GENERAL.—On the date that is 6 months after the date of enactment of this Act, the Administrator shall submit a report on the progress of the Administrator in carrying out subsection (a) to—

(A) the Committees; and

(B) the Comptroller General of the United States.

(2) EVALUATION.—Not later than 28 days after receipt of the report under paragraph (1)(B), the Comptroller General of the United States shall—

(A) prepare a written evaluation of the report for compliance with subsection (a); and

(B) submit the evaluation to the Committees.

(3) LIMITATION.—None of the funds provided for the purchase of the loan monitoring system may be obligated or expended until 45 days after the date on which the Committees and the Comptroller General of the United States receive the report under paragraph (1).

#### TITLE III—WOMEN'S BUSINESS ENTERPRISES

##### SEC. 301. INTERAGENCY COMMITTEE PARTICIPATION.

Section 403 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended—

(1) in subsection (a)(2)(A)—

(A) by striking "and Amendments Act of 1994" and inserting "Act of 1997"; and

(B) by inserting before the final period "and who shall report directly to the head of the agency on the status of the activities of the Interagency Committee";

(2) in subsection (a)(2)(B), by inserting before the final period the following: "and shall report directly to the Administrator on the status of the activities on the Interagency Committee and shall serve as the Interagency Committee Liaison to the National Women's Business Council established under section 405"; and

(3) in subsection (b), by striking "and Amendments Act of 1994" and inserting "Act of 1997".

##### SEC. 302. REPORTS.

Section 404 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended—

(1) by inserting "through the Small Business Administration," after "transmit";

(2) by striking paragraph (1) and redesignating paragraphs (2) through (4) as paragraphs (1) through (3), respectively; and

(3) in paragraph (1), as redesignated, by inserting before the semicolon the following: "including a verbatim report on the status of progress of the Interagency Committee in meeting its responsibilities and duties under section 402(a)".

##### SEC. 303. COUNCIL DUTIES.

Section 406 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended—

(1) in subsection (c), by inserting after "Administrator" the following: "(through the Assistant Administrator of the Office of Women's Business Ownership)"; and

(2) in subsection (d)—

(A) in paragraph (4), by striking "and" at the end;

(B) in paragraph (5), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

"(6) not later than 90 days after the last day of each fiscal year, submit to the President and to the Committee on Small Business of the Senate and the Committee on Small Business of the House of Representatives, a report containing—

"(A) a detailed description of the activities of the council, including a status report on the Council's progress toward meeting its duties outlined in subsections (a) and (d) of section 406;

"(B) the findings, conclusions, and recommendations of the Council; and

"(C) the Council's recommendations for such legislation and administrative actions as the Council considers appropriate to promote the development of small business concerns owned and controlled by women.

"(e) FORM OF TRANSMITTAL.—The information included in each report under subsection (d) that is described in subparagraphs (A) through (C) of subsection (d)(6), shall be reported verbatim, together with any separate additional, concurring, or dissenting views of the Administrator."

##### SEC. 304. COUNCIL MEMBERSHIP.

Section 407 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended—

(1) in subsection (a), by striking "and Amendments Act of 1994" and inserting "Act of 1997";

(2) in subsection (b)—

(A) by striking "and Amendments Act of 1994" and inserting "Act of 1997";

(B) by inserting after "the Administrator shall" the following: "after receiving the recommendations of the Chairman and the Ranking Member of the Committees on Small Business of the House of Representatives and the Senate,";

(C) by striking "9" and inserting "14";

(D) in paragraph (1), by striking "2" and inserting "4";

(E) in paragraph (2), by striking "2" and inserting "4"; and

(F) in paragraph (3)—

(i) by striking "5" and inserting "6";

(ii) by striking "national"; and

(iii) by inserting "including representatives of women's business center sites" before the period at the end;

(3) in subsection (c), by inserting "(including both urban and rural areas)" after "geographic";

(4) by striking subsection (d) and inserting the following:

"(d) TERMS.—Each member of the Council shall be appointed for a term of 3 years, except that, of the initial members appointed to the Council—

"(1) 2 members appointed under subsection (b)(1) shall be appointed for a term of 1 year;

"(2) 2 members appointed under subsection (b)(2) shall be appointed for a term of 1 year; and

"(3) each member appointed under subsection (b)(3) shall be appointed for a term of 2 years.";

(5) by striking subsection (f) and inserting the following:

"(f) VACANCIES.—

"(1) IN GENERAL.—A vacancy on the Council shall be filled not later than 30 days after the

date on which the vacancy occurs, in the manner in which the original appointment was made, and shall be subject to any conditions that applied to the original appointment.

"(2) **UNEXPIRED TERM.**—An individual chosen to fill a vacancy shall be appointed for the unexpired term of the member replaced."

**SEC. 305. AUTHORIZATION OF APPROPRIATIONS.**

Section 409 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended to read as follows:

**"SEC. 411. AUTHORIZATION OF APPROPRIATIONS.**

"(a) **IN GENERAL.**—There is authorized to be appropriated to carry out this title \$600,000, for each of fiscal years 1998 through 2000, of which \$200,000 shall be available in each fiscal year to carry out sections 409 and 410.

"(b) **BUDGET REVIEW.**—No amount made available under this section for any fiscal year may be obligated or expended by the Council before the date on which the Council reviews and approves the operating budget of the Council to carry out the responsibilities of the Council for that fiscal year."

**SEC. 306. NATIONAL WOMEN'S BUSINESS COUNCIL PROCUREMENT PROJECT.**

The Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended by inserting after section 408 the following:

**"SEC. 409. NATIONAL WOMEN'S BUSINESS COUNCIL PROCUREMENT PROJECT.**

**"(a) FEDERAL PROCUREMENT STUDY.**—

"(1) **IN GENERAL.**—During the first fiscal year for which amounts are made available to carry out this section, the Council shall conduct a study on the award of Federal prime contracts and subcontracts to women-owned businesses, which study shall include—

"(A) an analysis of data collected by Federal agencies on contract awards to women-owned businesses;

"(B) a determination of the degree to which individual Federal agencies are in compliance with the 5 percent women-owned business procurement goal established by section 15(g)(1) of the Small Business Act (15 U.S.C. 644(g)(1));

"(C) a determination of the types and amounts of Federal contracts characteristically awarded to women-owned businesses; and

"(D) other relevant information relating to participation of women-owned businesses in Federal procurement.

"(2) **SUBMISSION OF RESULTS.**—Not later than 12 months after initiating the study under paragraph (1), the Council shall submit to the Committees on Small Business of the House of Representatives and the Senate, and to the President, the results of the study conducted under paragraph (1).

"(b) **BEST PRACTICES REPORT.**—Not later than 18 months after initiating the study under subsection (a)(1), the Council shall submit to the Committees on Small Business of the House of Representatives and the Senate, and to the President, a report, which shall include—

"(1) an analysis of the most successful practices in attracting women-owned businesses as prime contractors and subcontractors by—

"(A) Federal agencies (as supported by findings from the study required under subsection (a)(1)) in Federal procurement awards; and

"(B) the private sector; and

"(2) recommendations for policy changes in Federal procurement practices, including an increase in the Federal procurement goal for women-owned businesses, in order to maximize the number of women-owned businesses performing Federal contracts.

"(c) **CONTRACT AUTHORITY.**—In conducting any study or other research under this section, the Council may contract with 1 or more public or private entities."

**SEC. 307. STUDIES AND OTHER RESEARCH.**

The Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended by inserting

after section 409 (as added by section 306 of this title) the following:

**"SEC. 410. STUDIES AND OTHER RESEARCH.**

"(a) **IN GENERAL.**—To the extent that it does not delay submission of the report under section 409(b), the Council may also conduct such studies and other research relating to the award of Federal prime contracts and subcontracts to women-owned businesses, or to issues relating to access to credit and investment capital by women entrepreneurs, as the Council determines to be appropriate.

"(b) **CONTRACT AUTHORITY.**—In conducting any study or other research under this section, the Council may contract with 1 or more public or private entities."

**SEC. 308. WOMEN'S BUSINESS CENTERS.**

(a) **IN GENERAL.**—Section 29 of the Small Business Act (15 U.S.C. 656) is amended to read as follows:

**"SEC. 29. WOMEN'S BUSINESS CENTER PROGRAM.**

"(a) **DEFINITIONS.**—In this section—

"(1) the term 'Assistant Administrator' means the Assistant Administrator of the Office of Women's Business Ownership established under subsection (g);

"(2) the term 'small business concern owned and controlled by women', either startup or existing, includes any small business concern—

"(A) that is not less than 51 percent owned by 1 or more women; and

"(B) the management and daily business operations of which are controlled by 1 or more women; and

"(3) the term 'women's business center site' means the location of—

"(A) a women's business center; or

"(B) 1 or more women's business centers, established in conjunction with another women's business center in another location within a State or region—

"(i) that reach a distinct population that would otherwise not be served;

"(ii) whose services are targeted to women; and

"(iii) whose scope, function, and activities are similar to those of the primary women's business center or centers in conjunction with which it was established.

"(b) **AUTHORITY.**—The Administration may provide financial assistance to private organizations to conduct 5-year projects for the benefit of small business concerns owned and controlled by women. The projects shall provide—

"(1) financial assistance, including training and counseling in how to apply for and secure business credit and investment capital, preparing and presenting financial statements, and managing cash flow and other financial operations of a business concern;

"(2) management assistance, including training and counseling in how to plan, organize, staff, direct, and control each major activity and function of a small business concern; and

"(3) marketing assistance, including training and counseling in identifying and segmenting domestic and international market opportunities, preparing and executing marketing plans, developing pricing strategies, locating contract opportunities, negotiating contracts, and utilizing varying public relations and advertising techniques.

"(c) **CONDITIONS OF PARTICIPATION.**—

"(1) **NON-FEDERAL CONTRIBUTIONS.**—As a condition of receiving financial assistance authorized by this section, the recipient organization shall agree to obtain, after its application has been approved and notice of award has been issued, cash contributions from non-Federal sources as follows:

"(A) in the first and second years, 1 non-Federal dollar for each 2 Federal dollars;

"(B) in the third and fourth years, 1 non-Federal dollar for each Federal dollar; and

"(C) in the fifth year, 2 non-Federal dollars for each Federal dollar.

"(2) **FORM OF NON-FEDERAL CONTRIBUTIONS.**—Not more than one-half of the non-Federal sector matching assistance may be in the form of in-kind contributions that are budget line items only, including office equipment and office space.

"(3) **FORM OF FEDERAL CONTRIBUTIONS.**—The financial assistance authorized pursuant to this section may be made by grant, contract, or cooperative agreement and may contain such provision, as necessary, to provide for payments in lump sum or installments, and in advance or by way of reimbursement. The Administration may disburse up to 25 percent of each year's Federal share awarded to a recipient organization after notice of the award has been issued and before the non-Federal sector matching funds are obtained.

"(4) **FAILURE TO OBTAIN NON-FEDERAL FUNDING.**—If any recipient of assistance fails to obtain the required non-Federal contribution during any project, it shall not be eligible thereafter for advance disbursements pursuant to paragraph (3) during the remainder of that project, or for any other project for which it is or may be funded by the Administration, and prior to approving assistance to such organization for any other projects, the Administration shall specifically determine whether the Administration believes that the recipient will be able to obtain the requisite non-Federal funding and enter a written finding setting forth the reasons for making such determination.

"(d) **CONTRACT AUTHORITY.**—A women's business center may enter into a contract with a Federal department or agency to provide specific assistance to women and other underserved small business concerns. Performance of such contract should not hinder the women's business centers in carrying out the terms of the grant received by the women's business centers from the Administration.

"(e) **SUBMISSION OF 5-YEAR PLAN.**—Each applicant organization initially shall submit a 5-year plan to the Administration on proposed fundraising and training activities, and a recipient organization may receive financial assistance under this program for a maximum of 5 years per women's business center site.

"(f) **CRITERIA.**—The Administration shall evaluate and rank applicants in accordance with predetermined selection criteria that shall be stated in terms of relative importance. Such criteria and their relative importance shall be made publicly available and stated in each solicitation for applications made by the Administration. The criteria shall include—

"(1) the experience of the applicant in conducting programs or ongoing efforts designed to impart or upgrade the business skills of women business owners or potential owners;

"(2) the present ability of the applicant to commence a project within a minimum amount of time;

"(3) the ability of the applicant to provide training and services to a representative number of women who are both socially and economically disadvantaged; and

"(4) the location for the women's business center site proposed by the applicant.

"(g) **OFFICE OF WOMEN'S BUSINESS OWNERSHIP.**—

"(1) **ESTABLISHMENT.**—There is established within the Administration an Office of Women's Business Ownership, which shall be responsible for the administration of the Administration's programs for the development of women's business enterprises (as defined in section 408 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note)). The Office of Women's Business Ownership shall be administered by an Assistant Administrator, who shall be appointed by the Administrator.

"(2) ASSISTANT ADMINISTRATOR OF THE OFFICE OF WOMEN'S BUSINESS OWNERSHIP.—

"(A) QUALIFICATION.—The position of Assistant Administrator shall be a Senior Executive Service position under section 3132(a)(2) of title 5, United States Code. The Assistant Administrator shall serve as a noncareer appointee (as defined in section 3132(a)(7) of that title).

"(B) RESPONSIBILITIES AND DUTIES.—

"(i) RESPONSIBILITIES.—The responsibilities of the Assistant Administrator shall be to administer the programs and services of the Office of Women's Business Ownership established to assist women entrepreneurs in the areas of—

"(I) starting and operating a small business;

"(II) development of management and technical skills;

"(III) seeking Federal procurement opportunities; and

"(IV) increasing the opportunity for access to capital.

"(ii) DUTIES.—The Assistant Administrator shall—

"(I) administer and manage the Women's Business Center program;

"(II) recommend the annual administrative and program budgets for the Office of Women's Business Ownership (including the budget for the Women's Business Center program);

"(III) establish appropriate funding levels therefor;

"(IV) review the annual budgets submitted by each applicant for the Women's Business Center program;

"(V) select applicants to participate in the program under this section;

"(VI) implement this section;

"(VII) maintain a clearinghouse to provide for the dissemination and exchange of information between women's business centers;

"(VIII) serve as the vice chairperson of the Interagency Committee on Women's Business Enterprise;

"(IX) serve as liaison for the National Women's Business Council; and

"(X) advise the Administrator on appointments to the Women's Business Council.

"(C) CONSULTATION REQUIREMENTS.—In carrying out the responsibilities and duties described in this paragraph, the Assistant Administrator shall confer with and seek the advice of the Administration officials in areas served by the women's business centers.

"(h) PROGRAM EXAMINATION.—

"(1) IN GENERAL.—Not later than 180 days after the date of enactment of the Small Business Reauthorization Act of 1997, the Administrator shall develop and implement an annual programmatic and financial examination of each women's business center established pursuant to this section.

"(2) EXTENSION OF CONTRACTS.—In extending or renewing a contract with a women's business center, the Administrator shall consider the results of the examination conducted under paragraph (1).

"(i) CONTRACT AUTHORITY.—The authority of the Administrator to enter into contracts shall be in effect for each fiscal year only to the extent and in the amounts as are provided in advance in appropriations Acts. After the Administrator has entered into a contract, either as a grant or a cooperative agreement, with any applicant under this section, it shall not suspend, terminate, or fail to renew or extend any such contract unless the Administrator provides the applicant with written notification setting forth the reasons therefore and affords the applicant an opportunity for a hearing, appeal, or other administrative proceeding under chapter 5 of title 5, United States Code.

"(j) REPORT.—The Administrator shall prepare and submit an annual report to the Committees on Small Business of the House of Rep-

resentatives and the Senate on the effectiveness of all projects conducted under the authority of this section. Such report shall provide information concerning—

"(1) the number of individuals receiving assistance;

"(2) the number of startup business concerns formed;

"(3) the gross receipts of assisted concerns;

"(4) increases or decreases in profits of assisted concerns; and

"(5) the employment increases or decreases of assisted concerns.

"(k) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There is authorized to be appropriated \$8,000,000 for each fiscal year to carry out the projects authorized under this section, of which, for fiscal year 1998, not more than 5 percent may be used for administrative expenses related to the program under this section.

"(2) USE OF AMOUNTS.—Amounts made available under this subsection for fiscal year 1999, and each fiscal year thereafter, may only be used for grant awards and may not be used for costs incurred by the Administration in connection with the management and administration of the program under this section.

"(3) EXPEDITED ACQUISITION.—Notwithstanding any other provision of law, the Administrator, acting through the Assistant Administrator, may use such expedited acquisition methods as the Administrator determines to be appropriate to carry out this section, except that the Administrator shall ensure that all small business sources are provided a reasonable opportunity to submit proposals."

(b) APPLICABILITY.—

(1) IN GENERAL.—Subject to paragraph (2), any organization conducting a 3-year project under section 29 of the Small Business Act (15 U.S.C. 656) (as in effect on the day before the effective date of this Act) on September 30, 1997, may request an extension of the term of that project to a total term of 5 years. If such an extension is made, the organization shall receive financial assistance in accordance with section 29(c) of the Small Business Act (as amended by this section) subject to procedures established by the Administrator, in coordination with the Assistant Administrator of the Office of Women's Business Ownership established under section 29 of the Small Business Act (15 U.S.C. 656) (as amended by this section).

(2) TERMS OF ASSISTANCE FOR CERTAIN ORGANIZATIONS.—Any organization operating in the third year of a 3-year project under section 29 of the Small Business Act (15 U.S.C. 656) (as in effect on the day before the effective date of this Act) on September 30, 1997, may request an extension of the term of that project to a total term of 5 years. If such an extension is made, during the fourth and fifth years of the project, the organization shall receive financial assistance in accordance with section 29(c)(1)(C) of the Small Business Act (as amended by this section) subject to procedures established by the Administrator, in coordination with the Assistant Administrator of the Office of Women's Business Ownership established under section 29 of the Small Business Act (15 U.S.C. 656) (as amended by this section).

**TITLE IV—COMPETITIVENESS PROGRAM AND PROCUREMENT OPPORTUNITIES**

**Subtitle A—Small Business Competitiveness Program**

**SEC. 401. PROGRAM TERM.**

Section 711(c) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note) is amended by striking "and terminate on September 30, 1997".

**SEC. 402. MONITORING AGENCY PERFORMANCE.**

Section 712(d)(1) of the Small Business Competitiveness Demonstration Program Act of 1988

(15 U.S.C. 644 note) is amended to read as follows:

"(1) Participating agencies shall monitor the attainment of their small business participation goals on an annual basis. An annual review by each participating agency shall be completed not later than January 31 of each year, based on the data for the preceding fiscal year, from October 1 through September 30."

**SEC. 403. REPORTS TO CONGRESS.**

Section 716(a) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note) is amended—

(1) by striking "1996" and inserting "2000";

(2) by striking "for Federal Procurement Policy" and inserting "of the Small Business Administration"; and

(3) by striking "Government Operations" and inserting "Government Reform and Oversight".

**SEC. 404. SMALL BUSINESS PARTICIPATION IN DREDGING.**

Section 722(a) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note) is amended by striking "and terminating on September 30, 1997".

**SEC. 405. TECHNICAL AMENDMENTS.**

Section 717 of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note) is amended—

(1) by inserting "or North American Industrial Classification Code" after "standard industrial classification code" each place it appears; and

(2) by inserting "or North American Industrial Classification Codes" after "standard industrial classification codes" each place it appears.

**Subtitle B—Small Business Procurement Opportunities Program**

**SEC. 411. CONTRACT BUNDLING.**

Section 2 of the Small Business Act (15 U.S.C. 631) is amended by adding at the end the following:

"(j) CONTRACT BUNDLING.—In complying with the statement of congressional policy expressed in subsection (a), relating to fostering the participation of small business concerns in the contracting opportunities of the Government, each Federal agency, to the maximum extent practicable, shall—

"(1) comply with congressional intent to foster the participation of small business concerns as prime contractors, subcontractors, and suppliers;

"(2) structure its contracting requirements to facilitate competition by and among small business concerns, taking all reasonable steps to eliminate obstacles to their participation; and

"(3) avoid unnecessary and unjustified bundling of contract requirements that precludes small business participation in procurements as prime contractors."

"(1) structure its contracting requirements to facilitate competition by and among small business concerns, taking all reasonable steps to eliminate obstacles to their participation; and

"(2) structure its contracting requirements to facilitate competition by and among small business concerns, taking all reasonable steps to eliminate obstacles to their participation; and

"(3) avoid unnecessary and unjustified bundling of contract requirements that precludes small business participation in procurements as prime contractors."

"(1) structure its contracting requirements to facilitate competition by and among small business concerns, taking all reasonable steps to eliminate obstacles to their participation; and

"(2) structure its contracting requirements to facilitate competition by and among small business concerns, taking all reasonable steps to eliminate obstacles to their participation; and

"(3) avoid unnecessary and unjustified bundling of contract requirements that precludes small business participation in procurements as prime contractors."

"(1) structure its contracting requirements to facilitate competition by and among small business concerns, taking all reasonable steps to eliminate obstacles to their participation; and

"(2) structure its contracting requirements to facilitate competition by and among small business concerns, taking all reasonable steps to eliminate obstacles to their participation; and

"(3) avoid unnecessary and unjustified bundling of contract requirements that precludes small business participation in procurements as prime contractors."

**SEC. 412. DEFINITION OF CONTRACT BUNDLING.**

Section 3 of the Small Business Act (15 U.S.C. 632) is amended by adding at the end the following:

"(o) DEFINITIONS OF BUNDLING OF CONTRACT REQUIREMENTS AND RELATED TERMS.—In this Act:

"(1) BUNDLED CONTRACT.—The term 'bundled contract' means a contract that is entered into to meet requirements that are consolidated in a bundling of contract requirements.

"(2) BUNDLING OF CONTRACT REQUIREMENTS.—The term 'bundling of contract requirements' means consolidating 2 or more procurement requirements for goods or services previously provided or performed under separate smaller contracts into a solicitation of offers for a single contract that is likely to be unsuitable for award to a small-business concern due to—

"(A) the diversity, size, or specialized nature of the elements of the performance specified;

"(B) the aggregate dollar value of the anticipated award;

"(C) the aggregate dollar value of the anticipated award;

"(D) the aggregate dollar value of the anticipated award;

"(E) the aggregate dollar value of the anticipated award;

"(F) the aggregate dollar value of the anticipated award;

"(G) the aggregate dollar value of the anticipated award;

"(H) the aggregate dollar value of the anticipated award;

"(I) the aggregate dollar value of the anticipated award;

“(C) the geographical dispersion of the contract performance sites; or

“(D) any combination of the factors described in subparagraphs (A), (B), and (C).

“(3) SEPARATE SMALLER CONTRACT.—The term ‘separate smaller contract’, with respect to a bundling of contract requirements, means a contract that has been performed by 1 or more small business concerns or was suitable for award to 1 or more small business concerns.”.

**SEC. 413. ASSESSING PROPOSED CONTRACT BUNDLING.**

(a) IN GENERAL.—Section 15 of the Small Business Act (15 U.S.C. 644) is amended by inserting after subsection (d) the following:

“(e) PROCUREMENT STRATEGIES; CONTRACT BUNDLING.—

“(1) IN GENERAL.—To the maximum extent practicable, procurement strategies used by the various agencies having contracting authority shall facilitate the maximum participation of small business concerns as prime contractors, subcontractors, and suppliers.

“(2) MARKET RESEARCH.—

“(A) IN GENERAL.—Before proceeding with an acquisition strategy that could lead to a contract containing consolidated procurement requirements, the head of an agency shall conduct market research to determine whether consolidation of the requirements is necessary and justified.

“(B) FACTORS.—For purposes of subparagraph (A), consolidation of the requirements may be determined as being necessary and justified if, as compared to the benefits that would be derived from contracting to meet those requirements if not consolidated, the Federal Government would derive from the consolidation measurably substantial benefits, including any combination of benefits that, in combination, are measurably substantial. Benefits described in the preceding sentence may include the following:

- “(i) Cost savings.
- “(ii) Quality improvements.
- “(iii) Reduction in acquisition cycle times.
- “(iv) Better terms and conditions.
- “(v) Any other benefits.

“(C) REDUCTION OF COSTS NOT DETERMINATIVE.—The reduction of administrative or personnel costs alone shall not be a justification for bundling of contract requirements unless the cost savings are expected to be substantial in relation to the dollar value of the procurement requirements to be consolidated.

“(3) STRATEGY SPECIFICATIONS.—If the head of a contracting agency determines that a proposed procurement strategy for a procurement involves a substantial bundling of contract requirements, the proposed procurement strategy shall—

“(A) identify specifically the benefits anticipated to be derived from the bundling of contract requirements;

“(B) set forth an assessment of the specific impediments to participation by small business concerns as prime contractors that result from the bundling of contract requirements and specify actions designed to maximize small business participation as subcontractors (including suppliers) at various tiers under the contract or contracts that are awarded to meet the requirements; and

“(C) include a specific determination that the anticipated benefits of the proposed bundled contract justify its use.

“(4) CONTRACT TEAMING.—In the case of a solicitation of offers for a bundled contract that is issued by the head of an agency, a small-business concern may submit an offer that provides for use of a particular team of subcontractors for the performance of the contract. The head of the agency shall evaluate the offer in the same manner as other offers, with due consideration

to the capabilities of all of the proposed subcontractors. If a small business concern teams under this paragraph, it shall not affect its status as a small business concern for any other purpose.”.

(b) ADMINISTRATION REVIEW.—Section 15(a) of the Small Business Act (15 U.S.C. 644(a)) is amended in the third sentence—

(1) by inserting “or the solicitation involves an unnecessary or unjustified bundling of contract requirements, as determined by the Administration,” after “discrete construction projects.”;

(2) by striking “or (4)” and inserting “(4)”;

(3) by inserting before the period at the end of the sentence the following: “, or (5) why the agency has determined that the bundled contract (as defined in section 3(o)) is necessary and justified”.

(c) RESPONSIBILITIES OF AGENCY SMALL BUSINESS ADVOCATES.—Section 15(k) of the Small Business Act (15 U.S.C. 644(k)) is amended—

(1) by redesignating paragraphs (5) through (9) as paragraphs (6) through (10), respectively; and

(2) by inserting after paragraph (4) the following:

“(5) identify proposed solicitations that involve significant bundling of contract requirements, and work with the agency acquisition officials and the Administration to revise the procurement strategies for such proposed solicitations where appropriate to increase the probability of participation by small businesses as prime contractors, or to facilitate small business participation as subcontractors and suppliers, if a solicitation for a bundled contract is to be issued.”.

**SEC. 414. REPORTING OF BUNDLED CONTRACT OPPORTUNITIES.**

(a) DATA COLLECTION REQUIRED.—The Federal Procurement Data System described in section 6(d)(4)(A) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(d)(4)(A)) shall be modified to collect data regarding bundling of contract requirements when the contracting officer anticipates that the resulting contract price, including all options, is expected to exceed \$5,000,000. The data shall reflect a determination made by the contracting officer regarding whether a particular solicitation constitutes a contract bundling.

(b) DEFINITIONS.—In this section, the term “bundling of contract requirements” has the meaning given that term in section 3(o) of the Small Business Act (15 U.S.C. 632(o)) (as added by section 412 of this subtitle).

**SEC. 415. EVALUATING SUBCONTRACT PARTICIPATION IN AWARDED CONTRACTS.**

Section 8(d)(4) of the Small Business Act (15 U.S.C. 637(d)(4)) is amended by adding at the end the following:

“(G) The following factors shall be designated by the Federal agency as significant factors for purposes of evaluating offers for a bundled contract where the head of the agency determines that the contract offers a significant opportunity for subcontracting:

“(i) A factor that is based on the rate provided under the subcontracting plan for small business participation in the performance of the contract.

“(ii) For the evaluation of past performance of an offeror, a factor that is based on the extent to which the offeror attained applicable goals for small business participation in the performance of contracts.”.

**SEC. 416. IMPROVED NOTICE OF SUBCONTRACTING OPPORTUNITIES.**

(a) USE OF THE COMMERCE BUSINESS DAILY AUTHORIZED.—Section 8 of the Small Business Act (15 U.S.C. 637) is amended by adding at the end the following:

“(k) NOTICES OF SUBCONTRACTING OPPORTUNITIES.—

“(1) IN GENERAL.—Notices of subcontracting opportunities may be submitted for publication in the Commerce Business Daily by—

“(A) a business concern awarded a contract by an executive agency subject to subsection (e)(1)(C); and

“(B) a business concern that is a subcontractor or supplier (at any tier) to such contractor having a subcontracting opportunity in excess of \$10,000.

“(2) CONTENT OF NOTICE.—The notice of a subcontracting opportunity shall include—

“(A) a description of the business opportunity that is comparable to the description specified in paragraphs (1), (2), (3), and (4) of subsection (f); and

“(B) the due date for receipt of offers.”.

(b) REGULATIONS REQUIRED.—The Federal Acquisition Regulation shall be amended to provide uniform implementation of the amendments made by this section.

(c) CONFORMING AMENDMENT.—Section 8(e)(1)(C) of the Small Business Act (15 U.S.C. 637(e)(1)(C)) is amended by striking “\$25,000” each place that term appears and inserting “\$100,000”.

**SEC. 417. DEADLINES FOR ISSUANCE OF REGULATIONS.**

(a) PROPOSED REGULATIONS.—Proposed amendments to the Federal Acquisition Regulation or proposed Small Business Administration regulations under this subtitle and the amendments made by this subtitle shall be published not later than 120 days after the date of enactment of this Act for the purpose of obtaining public comment pursuant to section 22 of the Office of Federal Procurement Policy Act (41 U.S.C. 418b), or chapter 5 of title 5, United States Code, as appropriate. The public shall be afforded not less than 60 days to submit comments.

(b) FINAL REGULATIONS.—Final regulations shall be published not later than 270 days after the date of enactment of this Act. The effective date for such final regulations shall be not less than 30 days after the date of publication.

**TITLE V—MISCELLANEOUS PROVISIONS**  
**SEC. 501. SMALL BUSINESS TECHNOLOGY TRANSFER PROGRAM.**

(a) REQUIRED EXPENDITURES.—Section 9(n) of the Small Business Act (15 U.S.C. 638(n)) is amended by striking paragraph (1) and inserting the following:

“(1) REQUIRED EXPENDITURE AMOUNTS.—With respect to fiscal years 1998, 1999, 2000, and 2001, each Federal agency that has an extramural budget for research, or research and development, in excess of \$1,000,000,000 for that fiscal year, is authorized to expend with small business concerns not less than 0.15 percent of that extramural budget specifically in connection with STTR programs that meet the requirements of this section and any policy directives and regulations issued under this section.”.

(b) REPORTS AND OUTREACH.—

(1) IN GENERAL.—Section 9 of the Small Business Act (15 U.S.C. 638) is amended—

(A) in subsection (o)—

- (i) by redesignating paragraphs (8) through (11) as paragraphs (10) through (13), respectively; and
- (ii) by inserting after paragraph (7) the following:

“(8) include, as part of its annual performance plan as required by subsections (a) and (b) of section 1115 of title 31, United States Code, a section on its STTR program, and shall submit such section to the Committee on Small Business of the Senate, and the Committee on Science and the Committee on Small Business of the House of Representatives;

“(9) collect such data from awardees as is necessary to assess STTR program outputs and outcomes.”;

(B) in subsection (e)(4)(A), by striking "(ii)"; and

(C) by adding at the end the following:

"(s) OUTREACH.—

"(1) DEFINITION OF ELIGIBLE STATE.—In this subsection, the term 'eligible State' means a State—

"(A) if the total value of contracts awarded to the State during fiscal year 1995 under this section was less than \$5,000,000; and

"(B) that certifies to the Administration described in paragraph (2) that the State will, upon receipt of assistance under this subsection, provide matching funds from non-Federal sources in an amount that is not less than 50 percent of the amount provided under this subsection.

"(2) PROGRAM AUTHORITY.—Of amounts made available to carry out this section for fiscal year 1998, 1999, 2000, or 2001 the Administrator may expend with eligible States not more than \$2,000,000 in each such fiscal year in order to increase the participation of small business concerns located in those States in the programs under this section.

"(3) AMOUNT OF ASSISTANCE.—The amount of assistance provided to an eligible State under this subsection in any fiscal year—

"(A) shall be equal to twice the total amount of matching funds from non-Federal sources provided by the State; and

"(B) shall not exceed \$100,000.

"(4) USE OF ASSISTANCE.—Assistance provided to an eligible State under this subsection shall be used by the State, in consultation with State and local departments and agencies, for programs and activities to increase the participation of small business concerns located in the State in the programs under this section, including—

"(A) the establishment of quantifiable performance goals, including goals relating to—

"(i) the number of program awards under this section made to small business concerns in the State; and

"(ii) the total amount of Federal research and development contracts awarded to small business concerns in the State;

"(B) the provision of competition outreach support to small business concerns in the State that are involved in research and development; and

"(C) the development and dissemination of educational and promotional information relating to the programs under this section to small business concerns in the State.

"(t) INCLUSION IN STRATEGIC PLANS.—Program information relating to the SBIR and STTR programs shall be included by each Federal agency in any update or revision required of the Federal agency under section 306(b) of title 5, United States Code."

(2) REPEAL.—Effective October 1, 2001, section 9(s) of the Small Business Act (as added by paragraph (1) of this subsection) is repealed.

#### SEC. 502. SMALL BUSINESS DEVELOPMENT CENTERS.

(a) IN GENERAL.—Section 21(a) of the Small Business Act (15 U.S.C. 648(a)) is amended—

(1) in paragraph (1)—

(A) by inserting "any women's business center operating pursuant to section 29," after "credit or finance corporation,";

(B) by inserting "or a women's business center operating pursuant to section 29" after "other than an institution of higher education"; and

(C) by inserting "and women's business centers operating pursuant to section 29" after "utilize institutions of higher education";

(2) in paragraph (3)—

(A) by striking "but with" and all that follows through "parties." and inserting the following: "for the delivery of programs and services to the small business community. Such pro-

grams and services shall be jointly developed, negotiated, and agreed upon, with full participation of both parties, pursuant to an executed cooperative agreement between the Small Business Development Center applicant and the Administration."; and

(B) by adding at the end the following:

"(C) On an annual basis, the Small Business Development Center shall review and coordinate public and private partnerships and cosponsorships with the Administration for the purpose of more efficiently leveraging available resources on a National and a State basis.";

(3) in paragraph (4)(C)—

(A) by striking clause (i) and inserting the following:

"(i) IN GENERAL.—

"(I) GRANT AMOUNT.—Subject to subclauses (II) and (III), the amount of a grant received by a State under this section shall be equal to the greater of \$500,000, or the sum of—

"(aa) the State's pro rata share of the national program, based upon the population of the State as compared to the total population of the United States; and

"(bb) \$300,000 in fiscal year 1998, \$400,000 in fiscal year 1999, and \$500,000 in each fiscal year thereafter.

"(II) PRO RATA REDUCTIONS.—If the amount made available to carry out this section for any fiscal year is insufficient to carry out subclause (I)(bb), the Administration shall make pro rata reductions in the amounts otherwise payable to States under subclause (I)(bb).

"(III) MATCHING REQUIREMENT.—The amount of a grant received by a State under this section shall not exceed the amount of matching funds from sources other than the Federal Government provided by the State under subparagraph (A)."; and

(B) in clause (iii), by striking "(iii)" and all that follows through "1997." and inserting the following:

"(iii) NATIONAL PROGRAM.—There are authorized to be appropriated to carry out the national program under this section—

"(I) \$85,000,000 for fiscal year 1998;

"(II) \$90,000,000 for fiscal year 1999; and

"(III) \$95,000,000 for fiscal year 2000 and each fiscal year thereafter.";

(4) in paragraph (6)—

(A) in subparagraph (A), by striking "and" at the end;

(B) in subparagraph (B), by striking the comma at the end and inserting "; and"; and

(C) inserting after subparagraph (B) the following:

"(C) with outreach, development, and enhancement of minority-owned small business startups or expansions, HUBZone small business concerns, veteran-owned small business startups or expansions, and women-owned small business startups or expansions, in communities impacted by base closings or military or corporate downsizing, or in rural or underserved communities.";

(b) SBDC SERVICES.—Section 21(c) of the Small Business Act (15 U.S.C. 648(c)) is amended—

(1) in paragraph (3)—

(A) in subparagraph (A), by striking "businesses;" and inserting "businesses, including—

"(i) working with individuals to increase awareness of basic credit practices and credit requirements;

"(ii) working with individuals to development business plans, financial packages, credit applications, and contract proposals;

"(iii) working with the Administration to develop and provide informational tools for use in working with individuals on pre-business start-up planning, existing business expansion, and export planning; and

"(iv) working with individuals referred by the local offices of the Administration and Administration participating lenders;"

(B) in each of subparagraphs (B), (C), (D), (E), (F), (G), (M), (N), (O), (Q), and (R) by moving each margin 2 ems to the left; and

(C) in subparagraph (C), by inserting "and the Administration" after "Center";

(2) in paragraph (5)—

(A) by moving the margin 2 ems to the right;

(B) by striking "paragraph (a)(1)" and inserting "subsection (a)(1)";

(C) by striking "whichever" and inserting "whichever"; and

(D) by striking "last," and inserting "last,";

(3) by redesignating paragraphs (4) through (7) as paragraphs (5) through (8), respectively; and

(4) in paragraph (3), in the undesignated material following subparagraph (R), by striking "A small" and inserting the following:

"(4) A small".

(c) COMPETITIVE AWARDS.—Section 21(l) of the Small Business Act (15 U.S.C. 648(l)) is amended by adding at the end the following: "If any contract or cooperative agreement under this section is not renewed or extended, any award of a successor contract or cooperative agreement under this section to another entity shall be made on a competitive basis."

(d) PROHIBITION ON CERTAIN FEES.—Section 21 of the Small Business Act (15 U.S.C. 648) is amended by adding at the end the following:

"(m) PROHIBITION ON CERTAIN FEES.—A small business development center shall not impose or otherwise collect a fee or other compensation in connection with the provision of counseling services under this section."

#### SEC. 503. PILOT PREFERRED SURETY BOND GUARANTEE PROGRAM EXTENSION.

Section 207 of the Small Business Administration Reauthorization and Amendment Act of 1988 (15 U.S.C. 694b note) is amended by striking "September 30, 1997" and inserting "September 30, 2000".

#### SEC. 504. EXTENSION OF COSPONSORSHIP AUTHORITY.

Section 401(a)(2) of the Small Business Administration Reauthorization and Amendments Act of 1994 (15 U.S.C. 637 note) is amended by striking "September 30, 1997" and inserting "September 30, 2000".

#### SEC. 505. ASSET SALES.

In connection with the Administration's implementation of a program to sell to the private sector loans and other assets held by the Administration, the Administration shall provide to the Committees a copy of the draft and final plans describing the sale and the anticipated benefits resulting from such sale.

#### SEC. 506. SMALL BUSINESS EXPORT PROMOTION.

(a) IN GENERAL.—Section 21(c)(3) of the Small Business Act (15 U.S.C. 648(c)(3)) is amended—

(1) in subparagraph (Q), by striking "and" at the end;

(2) in subparagraph (R), by striking the period at the end and inserting "; and"; and

(3) by inserting after subparagraph (R) the following:

"(S) providing small business owners with access to a wide variety of export-related information by establishing on-line computer linkages between small business development centers and an international trade data information network with ties to the Export Assistance Center program."

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out section 21(c)(3)(S) of the Small Business Act (15 U.S.C. 648(c)(3)(S)), as added by this section, \$1,500,000 for each fiscal years 1998 and 1999.

#### SEC. 507. DEFENSE LOAN AND TECHNICAL ASSISTANCE PROGRAM.

(a) DELTA PROGRAM AUTHORIZED.—

(1) IN GENERAL.—The Administrator may administer the Defense Loan and Technical Assistance program in accordance with the authority and requirements of this section.

(2) **EXPIRATION OF AUTHORITY.**—The authority of the Administrator to carry out the DELTA program under paragraph (1) shall terminate when the funds referred to in subsection (g)(1) have been expended.

(3) **DELTA PROGRAM DEFINED.**—In this section, the terms "Defense Loan and Technical Assistance program" and "DELTA program" mean the Defense Loan and Technical Assistance program that has been established by a memorandum of understanding entered into by the Administrator and the Secretary of Defense on June 26, 1995.

(b) **ASSISTANCE.**—

(1) **AUTHORITY.**—Under the DELTA program, the Administrator may assist small business concerns that are economically dependent on defense expenditures to acquire dual-use capabilities.

(2) **FORMS OF ASSISTANCE.**—Forms of assistance authorized under paragraph (1) are as follows:

(A) **LOAN GUARANTEES.**—Loan guarantees under the terms and conditions specified under this section and other applicable law.

(B) **NONFINANCIAL ASSISTANCE.**—Other forms of assistance that are not financial.

(c) **ADMINISTRATION OF PROGRAM.**—In the administration of the DELTA program under this section, the Administrator shall—

(1) process applications for DELTA program loan guarantees;

(2) guarantee repayment of the resulting loans in accordance with this section; and

(3) take such other actions as are necessary to administer the program.

(d) **SELECTION AND ELIGIBILITY REQUIREMENTS FOR DELTA LOAN GUARANTEES.**—

(1) **IN GENERAL.**—The selection criteria and eligibility requirements set forth in this subsection shall be applied in the selection of small business concerns to receive loan guarantees under the DELTA program.

(2) **SELECTION CRITERIA.**—The criteria used for the selection of a small business concern to receive a loan guarantee under this section are as follows:

(A) The selection criteria established under the memorandum of understanding referred to in subsection (a)(3).

(B) The extent to which the loans to be guaranteed would support the retention of defense workers whose employment would otherwise be permanently or temporarily terminated as a result of reductions in expenditures by the United States for defense, the termination or cancellation of a defense contract, the failure to proceed with an approved major weapon system, the merger or consolidation of the operations of a defense contractor, or the closure or realignment of a military installation.

(C) The extent to which the loans to be guaranteed would stimulate job creation and new economic activities in communities most adversely affected by reductions in expenditures by the United States for defense, the termination or cancellation of a defense contract, the failure to proceed with an approved major weapon system, the merger or consolidation of the operations of a defense contractor, or the closure or realignment of a military installation.

(D) The extent to which the loans to be guaranteed would be used to acquire (or permit the use of other funds to acquire) capital equipment to modernize or expand the facilities of the borrower to enable the borrower to remain in the national technology and industrial base available to the Department of Defense.

(3) **ELIGIBILITY REQUIREMENTS.**—To be eligible for a loan guarantee under the DELTA program, a borrower must demonstrate to the satisfaction of the Administrator that, during any 1 of the 5 preceding operating years of the borrower, not less than 25 percent of the value of the borrower's sales were derived from—

(A) contracts with the Department of Defense or the defense-related activities of the Department of Energy; or

(B) subcontracts in support of defense-related prime contracts.

(e) **MAXIMUM AMOUNT OF LOAN PRINCIPAL.**—With respect to each borrower, the maximum amount of loan principal for which the Administrator may provide a guarantee under this section during a fiscal year may not exceed \$1,250,000.

(f) **LOAN GUARANTEE RATE.**—The maximum allowable guarantee percentage for loans guaranteed under this section may not exceed 80 percent.

(g) **FUNDING.**—

(1) **IN GENERAL.**—The funds that have been made available for loan guarantees under the DELTA program and have been transferred from the Department of Defense to the Small Business Administration before the date of the enactment of this Act shall be used for carrying out the DELTA program under this section.

(2) **CONTINUED AVAILABILITY OF EXISTING FUNDS.**—The funds made available under the second proviso under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE" in Public Law 103-335 (108 Stat. 2613) shall be available until expended—

(A) to cover the costs (as defined in section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5))) of loan guarantees issued under this section; and

(B) to cover the reasonable costs of the administration of the loan guarantees.

#### SEC. 508. VERY SMALL BUSINESS CONCERNS.

Section 304(i) of the Small Business Administration Reauthorization and Amendments Act of 1994 (15 U.S.C. 644 note) is amended by striking "September 30, 1998" and inserting "September 30, 2000".

#### SEC. 509. TRADE ASSISTANCE PROGRAM FOR SMALL BUSINESS CONCERNS ADVERSELY AFFECTED BY NAFTA.

The Administrator shall coordinate Federal assistance in order to provide counseling to small business concerns adversely affected by the North American Free Trade Agreement.

### TITLE VI—HUBZONE PROGRAM

#### SEC. 601. SHORT TITLE.

This title may be cited as the "HUBZone Act of 1997".

#### SEC. 602. HISTORICALLY UNDERUTILIZED BUSINESS ZONES.

(a) **DEFINITIONS.**—Section 3 of the Small Business Act (15 U.S.C. 632) (as amended by section 412 of this Act) is amended by adding at the end the following:

"(p) **DEFINITIONS RELATING TO HUBZONES.**—In this Act:

"(1) **HISTORICALLY UNDERUTILIZED BUSINESS ZONE.**—The term 'historically underutilized business zone' means any area located within 1 or more—

"(A) qualified census tracts;

"(B) qualified nonmetropolitan counties; or

"(C) lands within the external boundaries of an Indian reservation.

"(2) **HUBZONE.**—The term 'HUBZone' means a historically underutilized business zone.

"(3) **HUBZONE SMALL BUSINESS CONCERN.**—The term 'HUBZone small business concern' means a small business concern—

"(A) that is owned and controlled by 1 or more persons, each of whom is a United States citizen; and

"(B) the principal office of which is located in a HUBZone; or

"(4) **QUALIFIED AREAS.**—

"(A) **QUALIFIED CENSUS TRACT.**—The term 'qualified census tract' has the meaning given that term in section 42(d)(5)(C)(ii)(I) of the Internal Revenue Code of 1986.

"(B) **QUALIFIED NONMETROPOLITAN COUNTY.**—The term 'qualified nonmetropolitan county' means any county—

"(i) that, based on the most recent data available from the Bureau of the Census of the Department of Commerce—

"(I) is not located in a metropolitan statistical area (as defined in section 143(k)(2)(B) of the Internal Revenue Code of 1986); and

"(II) in which the median household income is less than 80 percent of the nonmetropolitan State median household income; or

"(ii) that, based on the most recent data available from the Secretary of Labor, has an unemployment rate that is not less than 140 percent of the statewide average unemployment rate for the State in which the county is located.

"(5) **QUALIFIED HUBZONE SMALL BUSINESS CONCERN.**—

"(A) **IN GENERAL.**—A HUBZone small business concern is 'qualified', if—

"(i) the small business concern has certified in writing to the Administrator (or the Administrator otherwise determines, based on information submitted to the Administrator by the small business concern, or based on certification procedures, which shall be established by the Administration by regulation) that—

"(I) it is a HUBZone small business concern;

"(II) not less than 35 percent of the employees of the small business concern reside in a HUBZone, and the small business concern will attempt to maintain this employment percentage during the performance of any contract awarded to the small business concern on the basis of a preference provided under section 31(b); and

"(III) with respect to any subcontract entered into by the small business concern pursuant to a contract awarded to the small business concern under section 31, the small business concern will ensure that—

"(aa) in the case of a contract for services (except construction), not less than 50 percent of the cost of contract performance incurred for personnel will be expended for its employees or for employees of other HUBZone small business concerns; and

"(bb) in the case of a contract for procurement of supplies (other than procurement from a regular dealer in such supplies), not less than 50 percent of the cost of manufacturing the supplies (not including the cost of materials) will be incurred in connection with the performance of the contract in a HUBZone by 1 or more HUBZone small business concerns; and

"(ii) no certification made or information provided by the small business concern under clause (i) has been, in accordance with the procedures established under section 31(c)(1)—

"(I) successfully challenged by an interested party; or

"(II) otherwise determined by the Administrator to be materially false.

"(B) **CHANGE IN PERCENTAGES.**—The Administrator may utilize a percentage other than the percentage specified in under item (aa) or (bb) of subparagraph (A)(i)(III), if the Administrator determines that such action is necessary to reflect conventional industry practices among small business concerns that are below the numerical size standard for businesses in that industry category.

"(C) **CONSTRUCTION AND OTHER CONTRACTS.**—The Administrator shall promulgate final regulations imposing requirements that are similar to those specified in subclauses (IV) and (V) of subparagraph (A)(i) on contracts for general and specialty construction, and on contracts for any other industry category that would not otherwise be subject to those requirements. The percentage applicable to any such requirement shall be determined in accordance with subparagraph (B).

"(D) LIST OF QUALIFIED SMALL BUSINESS CONCERNS.—The Administrator shall establish and maintain a list of qualified HUBZone small business concerns, which list shall, to the extent practicable—

"(i) include the name, address, and type of business with respect to each such small business concern;

"(ii) be updated by the Administrator not less than annually; and

"(iii) be provided upon request to any Federal agency or other entity."

(b) FEDERAL CONTRACTING.—

(1) IN GENERAL.—The Small Business Act (15 U.S.C. 631 et seq.) is amended—

(A) by redesignating section 31 as section 32; and

(B) by inserting after section 30 the following:

**"SEC. 31. HUBZONE PROGRAM.**

"(a) IN GENERAL.—There is established within the Administration a program to be carried out by the Administrator to provide for Federal contracting assistance to qualified HUBZone small business concerns in accordance with this section.

"(b) ELIGIBLE CONTRACTS.—

"(1) DEFINITIONS.—In this subsection—

"(A) the term 'contracting officer' has the meaning given that term in section 27(f)(5) of the Office of Federal Procurement Policy Act (41 U.S.C. 423(f)(5)); and

"(B) the term 'full and open competition' has the meaning given that term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

"(2) AUTHORITY OF CONTRACTING OFFICER.—Notwithstanding any other provision of law—

"(A) a contracting officer may award sole source contracts under this section to any qualified HUBZone small business concern, if—

"(i) the qualified HUBZone small business concern is determined to be a responsible contractor with respect to performance of such contract opportunity, and the contracting officer does not have a reasonable expectation that 2 or more qualified HUBZone small business concerns will submit offers for the contracting opportunity;

"(ii) the anticipated award price of the contract (including options) will not exceed—

"(I) \$5,000,000, in the case of a contract opportunity assigned a standard industrial classification code for manufacturing; or

"(II) \$3,000,000, in the case of all other contract opportunities; and

"(iii) in the estimation of the contracting officer, the contract award can be made at a fair and reasonable price;

"(B) a contract opportunity shall be awarded pursuant to this section on the basis of competition restricted to qualified HUBZone small business concerns if the contracting officer has a reasonable expectation that not less than 2 qualified HUBZone small business concerns will submit offers and that the award can be made at a fair market price; and

"(C) not later than 5 days from the date the Administration is notified of a procurement officer's decision not to award a contract opportunity under this section to a qualified HUBZone small business concern, the Administrator may notify the contracting officer of the intent to appeal the contracting officer's decision, and within 15 days of such date the Administrator may file a written request for reconsideration of the contracting officer's decision with the Secretary of the department or agency head.

"(3) PRICE EVALUATION PREFERENCE IN FULL AND OPEN COMPETITIONS.—In any case in which a contract is to be awarded on the basis of full and open competition, the price offered by a qualified HUBZone small business concern shall be deemed as being lower than the price offered

by another offeror (other than another small business concern), if the price offered by the qualified HUBZone small business concern is not more than 10 percent higher than the price offered by the otherwise lowest, responsive, and responsible offeror.

"(4) RELATIONSHIP TO OTHER CONTRACTING PREFERENCES.—A procurement may not be made from a source on the basis of a preference provided in paragraph (2) or (3), if the procurement would otherwise be made from a different source under section 4124 or 4125 of title 18, United States Code, or the Javits-Wagner-O'Day Act (41 U.S.C. 46 et seq.).

"(c) ENFORCEMENT; PENALTIES.—

"(1) VERIFICATION OF ELIGIBILITY.—In carrying out this section, the Administrator shall establish procedures relating to—

"(A) the filing, investigation, and disposition by the Administration of any challenge to the eligibility of a small business concern to receive assistance under this section (including a challenge, filed by an interested party, relating to the veracity of a certification made or information provided to the Administration by a small business concern under section 3(p)(5)); and

"(B) verification by the Administrator of the accuracy of any certification made or information provided to the Administration by a small business concern under section 3(p)(5).

"(2) EXAMINATIONS.—The procedures established under paragraph (1) may provide for program examinations (including random program examinations) by the Administrator of any small business concern making a certification or providing information to the Administrator under section 3(p)(5).

"(3) PROVISION OF DATA.—Upon the request of the Administrator, the Secretary of Labor, the Secretary of Housing and Urban Development, and the Secretary of the Interior (or the Assistant Secretary for Indian Affairs), shall promptly provide to the Administrator such information as the Administrator determines to be necessary to carry out this subsection.

"(4) PENALTIES.—In addition to the penalties described in section 16(d), any small business concern that is determined by the Administrator to have misrepresented the status of that concern as a 'HUBZone small business concern' for purposes of this section, shall be subject to—

"(A) section 1001 of title 18, United States Code; and

"(B) sections 3729 through 3733 of title 31, United States Code."

(2) INITIAL LIMITED APPLICABILITY.—During the period beginning on the date of enactment of this Act and ending on September 30, 2000, section 31 of the Small Business Act (as added by paragraph (1) of this subsection) shall apply only to procurements by—

(A) the Department of Defense;

(B) the Department of Agriculture;

(C) the Department of Health and Human Services;

(D) the Department of Transportation;

(E) the Department of Energy;

(F) the Department of Housing and Urban Development;

(G) the Environmental Protection Agency;

(H) the National Aeronautics and Space Administration;

(I) the General Services Administration; and

(J) the Department of Veterans Affairs.

**SEC. 603. TECHNICAL AND CONFORMING AMENDMENTS TO THE SMALL BUSINESS ACT.**

(a) PERFORMANCE OF CONTRACTS.—Section 8(d) of the Small Business Act (15 U.S.C. 637(d)) is amended—

(1) in paragraph (1)—

(A) in the first sentence, by striking "small business concerns owned and controlled by socially and economically disadvantaged individ-

uals" and inserting "qualified HUBZone small business concerns, small business concerns owned and controlled by socially and economically disadvantaged individuals"; and

(B) in the second sentence, by inserting "qualified HUBZone small business concerns," after "small business concerns,";

(2) in paragraph (3)—

(A) by inserting "qualified HUBZone small business concerns," after "small business concerns," each place that term appears; and

(B) by adding at the end the following:

"(F) In this contract, the term 'qualified HUBZone small business concern' has the meaning given that term in section 3(p) of the Small Business Act."

(3) in paragraph (4)(E), by striking "small business concerns and" and inserting "small business concerns, qualified HUBZone small business concerns, and";

(4) in paragraph (6), by inserting "qualified HUBZone small business concerns," after "small business concerns," each place that term appears; and

(5) in paragraph (10), by inserting "qualified HUBZone small business concerns," after "small business concerns,".

(b) AWARDS OF CONTRACTS.—Section 15 of the Small Business Act (15 U.S.C. 644) is amended—

(1) in subsection (g)(1)—

(A) by inserting "qualified HUBZone small business concerns," after "small business concerns," each place that term appears;

(B) in the second sentence, by striking "20 percent" and inserting "23 percent"; and

(C) by inserting after the second sentence the following: "The Governmentwide goal for participation by qualified HUBZone small business concerns shall be established at not less than 1 percent of the total value of all prime contract awards for fiscal year 1999, not less than 1.5 percent of the total value of all prime contract awards for fiscal year 2000, not less than 2 percent of the total value of all prime contract awards for fiscal year 2001, not less than 2.5 percent of the total value of all prime contract awards for fiscal year 2002, and not less than 3 percent of the total value of all prime contract awards for fiscal year 2003 and each fiscal year thereafter."

(2) in subsection (g)(2)—

(A) in the first sentence, by striking "small business concerns owned and controlled by socially and economically disadvantaged individuals" and inserting "qualified HUBZone small business concerns, by small business concerns owned and controlled by socially and economically disadvantaged individuals";

(B) in the second sentence, by inserting "qualified HUBZone small business concerns," after "small business concerns,"; and

(C) in the fourth sentence, by striking "by small business concerns owned and controlled by socially and economically disadvantaged individuals and participation by small business concerns owned and controlled by women" and inserting "by qualified HUBZone small business concerns, by small business concerns owned and controlled by socially and economically disadvantaged individuals, and by small business concerns owned and controlled by women"; and

(3) in subsection (h), by inserting "qualified HUBZone small business concerns," after "small business concerns," each place that term appears.

(c) OFFENSES AND PENALTIES.—Section 16 of the Small Business Act (15 U.S.C. 645) is amended—

(1) in subsection (d)(1)—

(A) by inserting "qualified HUBZone small business concern," after "small business concern,"; and

(B) in subparagraph (A), by striking "section 9 or 15" and inserting "section 9, 15, or 31"; and

(2) in subsection (e), by inserting “, a HUBZone small business concern,” after “small business concern”;

**SEC. 604. OTHER TECHNICAL AND CONFORMING AMENDMENTS.**

(a) TITLE 10, UNITED STATES CODE.—Section 2323 of title 10, United States Code, is amended—

(1) in subsection (a)(1)(A), by inserting before the semicolon the following: “, and qualified HUBZone small business concerns (as defined in section 3(p) of the Small Business Act)”;

(2) in subsection (f)(1), by inserting “or as a qualified HUBZone small business concern (as defined in section 3(p) of the Small Business Act)” after “(as described in subsection (a))”;

(b) FEDERAL HOME LOAN BANK ACT.—Section 21A(b)(13) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(13)) is amended—

(1) by striking “concerns and small” and inserting “concerns, small”; and

(2) by inserting “, and qualified HUBZone small business concerns (as defined in section 3(p) of the Small Business Act)” after “disadvantaged individuals”;

(c) SMALL BUSINESS ECONOMIC POLICY ACT OF 1980.—Section 303(e) of the Small Business Economic Policy Act of 1980 (15 U.S.C. 631b(e)) is amended—

(1) in paragraph (1), by striking “and” at the end;

(2) in paragraph (2), by striking the period at the end and inserting “; and”;

(3) by adding at the end the following:

“(3) qualified HUBZone small business concern (as defined in section 3(p) of the Small Business Act).”;

(d) SMALL BUSINESS INVESTMENT ACT OF 1958.—Section 411(c)(3)(B) of the Small Business Investment Act of 1958 (15 U.S.C. 694b(c)(3)(B)) is amended by inserting before the semicolon the following: “, or to a qualified HUBZone small business concern (as defined in section 3(p) of the Small Business Act)”;

(e) TITLE 31, UNITED STATES CODE.—

(1) CONTRACTS FOR COLLECTION SERVICES.—Section 3718(b) of title 31, United States Code, is amended—

(A) in paragraph (1)(B), by inserting “and law firms that are qualified HUBZone small business concerns (as defined in section 3(p) of the Small Business Act)” after “disadvantaged individuals”; and

(B) in paragraph (3)—

(i) in the first sentence, by inserting before the period “and law firms that are qualified HUBZone small business concerns”;

(ii) in subparagraph (A), by striking “and” at the end;

(iii) in subparagraph (B), by striking the period at the end and inserting “; and”;

(iv) by adding at the end the following:

“(C) the term ‘qualified HUBZone small business concern’ has the meaning given that term in section 3(p) of the Small Business Act.”;

(2) PAYMENTS TO LOCAL GOVERNMENTS.—Section 6701(f) of title 31, United States Code, is amended—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking “and” at the end;

(ii) in subparagraph (B), by striking the period at the end and inserting “; and”;

(iii) by adding at the end the following:

“(C) qualified HUBZone small business concerns.”; and

(B) in paragraph (3)—

(i) in subparagraph (A), by striking “and” at the end;

(ii) in subparagraph (B), by striking the period at the end and inserting “; and”;

(iii) by adding at the end the following:

“(C) the term ‘qualified HUBZone small business concern’ has the meaning given that term

in section 3(p) of the Small Business Act (15 U.S.C. 632(o)).”;

(3) REGULATIONS.—Section 7505(c) of title 31, United States Code, is amended by striking “small business concerns and” and inserting “small business concerns, qualified HUBZone small business concerns, and”;

(f) OFFICE OF FEDERAL PROCUREMENT POLICY ACT.—

(1) ENUMERATION OF INCLUDED FUNCTIONS.—Section 6(d) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(d)) is amended—

(A) in paragraph (11), by inserting “qualified HUBZone small business concerns (as defined in section 3(p) of the Small Business Act),” after “small businesses,”; and

(B) in paragraph (12), by inserting “qualified HUBZone small business concerns (as defined in section 3(p) of the Small Business Act (15 U.S.C. 632(o)),” after “small businesses,”;

(2) PROCUREMENT DATA.—Section 502 of the Women’s Business Ownership Act of 1988 (41 U.S.C. 417a) is amended—

(A) in subsection (a)—

(i) in the first sentence, by inserting “the number of qualified HUBZone small business concerns,” after “Procurement Policy”; and

(ii) by inserting a comma after “women”; and

(B) in subsection (b), by inserting after “section 204 of this Act” the following: “, and the term ‘qualified HUBZone small business concern’ has the meaning given that term in section 3(p) of the Small Business Act (15 U.S.C. 632(o)).”;

(g) ENERGY POLICY ACT OF 1992.—Section 3021 of the Energy Policy Act of 1992 (42 U.S.C. 13556) is amended—

(1) in subsection (a)—

(A) in paragraph (2), by striking “or”;

(B) in paragraph (3), by striking the period and inserting “; or”;

(C) by adding at the end the following:

“(4) qualified HUBZone small business concerns.”; and

(2) in subsection (b), by adding at the end the following:

“(3) The term ‘qualified HUBZone small business concern’ has the meaning given that term in section 3(p) of the Small Business Act (15 U.S.C. 632(o)).”;

(h) TITLE 49, UNITED STATES CODE.—

(1) PROJECT GRANT APPLICATION APPROVAL CONDITIONED ON ASSURANCES ABOUT AIRPORT OPERATION.—Section 47107(e) of title 49, United States Code, is amended—

(A) in paragraph (1), by inserting before the period “or qualified HUBZone small business concerns (as defined in section 3(p) of the Small Business Act)”;

(B) in paragraph (4)(B), by inserting before the period “or as a qualified HUBZone small business concern (as defined in section 3(p) of the Small Business Act)”;

(C) in paragraph (6), by inserting “or a qualified HUBZone small business concern (as defined in section 3(p) of the Small Business Act)” after “disadvantaged individual”;

(2) MINORITY AND DISADVANTAGED BUSINESS PARTICIPATION.—Section 47113 of title 49, United States Code, is amended—

(A) in subsection (a)—

(i) in paragraph (1), by striking the period at the end and inserting a semicolon;

(ii) in paragraph (2), by striking the period at the end and inserting “; and”;

(iii) by adding at the end the following:

“(3) the term ‘qualified HUBZone small business concern’ has the meaning given that term in section 3(p) of the Small Business Act (15 U.S.C. 632(o)).”;

(B) in subsection (b), by inserting before the period “or qualified HUBZone small business concerns”;

**SEC. 605. REGULATIONS.**

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Ad-

ministrators shall publish in the Federal Register such final regulations as may be necessary to carry out this title and the amendments made by this title.

(b) FEDERAL ACQUISITION REGULATION.—Not later than 180 days after the date on which final regulations are published under subsection (a), the Federal Acquisition Regulatory Council shall amend the Federal Acquisition Regulation in order to ensure consistency between the Federal Acquisition Regulation, this title and the amendments made by this title, and the final regulations published under subsection (a).

**SEC. 606. REPORT.**

Not later than March 1, 2002, the Administrator shall submit to the Committees a report on the implementation of the HUBZone program established under section 31 of the Small Business Act (as added by section 602(b) of this title) and the degree to which the HUBZone program has resulted in increased employment opportunities and an increased level of investment in HUBZones (as defined in section 3(p) of the Small Business Act (15 U.S.C. 632(p)), as added by section 602(a) of this title).

**SEC. 607. AUTHORIZATION OF APPROPRIATIONS.**

Section 20 of the Small Business Act (15 U.S.C. 631 note) (as amended by section 101 of this Act) is amended—

(1) in subsection (c), by adding at the end the following:

“(3) HUBZONE PROGRAM.—There are authorized to be appropriated to the Administration to carry out the program under section 31, \$5,000,000 for fiscal year 1998.”;

(2) in subsection (d), by adding at the end the following:

“(3) HUBZONE PROGRAM.—There are authorized to be appropriated to the Administration to carry out the program under section 31, \$5,000,000 for fiscal year 1999.”; and

(3) in subsection (e), by adding at the end the following:

“(3) HUBZONE PROGRAM.—There are authorized to be appropriated to the Administration to carry out the program under section 31, \$5,000,000 for fiscal year 2000.”;

**TITLE VII—SERVICE DISABLED VETERANS**

**SEC. 701. PURPOSES.**

The purposes of this title are—

(1) to foster enhanced entrepreneurship among eligible veterans by providing increased opportunities;

(2) to vigorously promote the legitimate interests of small business concerns owned and controlled by eligible veterans; and

(3) to ensure that those concerns receive fair consideration in purchases made by the Federal Government.

**SEC. 702. DEFINITIONS.**

In this title:

(1) ELIGIBLE VETERAN.—The term “eligible veteran” means a disabled veteran (as defined in section 4211(3) of title 38, United States Code).

(2) SMALL BUSINESS CONCERN OWNED AND CONTROLLED BY ELIGIBLE VETERANS.—The term “small business concern owned and controlled by eligible veterans” means a small business concern (as defined in section 3 of the Small Business Act)—

(A) that is at least 51 percent owned by 1 or more eligible veterans, or in the case of a publicly owned business, at least 51 percent of the stock of which is owned by 1 or more eligible veterans; and

(B) whose management and daily business operations are controlled by eligible veterans.

**SEC. 703. REPORT BY SMALL BUSINESS ADMINISTRATION.**

(a) STUDY AND REPORT.—

(1) IN GENERAL.—Not later than 9 months after the date of enactment of this Act, the Administrator shall conduct a comprehensive study

and submit to the Committees a final report containing findings and recommendations of the Administrator on—

(A) the needs of small business concerns owned and controlled by eligible veterans;

(B) the availability and utilization of Administration programs by small business concerns owned and controlled by eligible veterans;

(C) the percentage, and dollar value, of Federal contracts awarded to small business concerns owned and controlled by eligible veterans in the preceding 5 fiscal years; and

(D) methods to improve Administration and other agency programs to serve the needs of small business concerns owned and controlled by eligible veterans.

(2) **CONTENTS.**—The report under paragraph (1) shall include recommendations to Congress concerning the need for legislation and recommendations to the Office of Management and Budget, relevant offices within the Administration, and the Department of Veterans Affairs.

(b) **CONDUCT OF STUDY.**—In carrying out subsection (a), the Administrator—

(1) may conduct surveys of small business concerns owned and controlled by eligible veterans and service disabled veterans, including those who have sought financial assistance or other services from the Administration;

(2) shall consult with the appropriate committees of Congress, relevant groups and organizations in the nonprofit sector, and Federal or State government agencies; and

(3) shall have access to any information within other Federal agencies that pertains to such veterans and their small businesses, unless such access is specifically prohibited by law.

#### **SEC. 704. INFORMATION COLLECTION.**

After the date of issuance of the report required by section 703(a), the Secretary of Veterans Affairs shall, in consultation with the Assistant Secretary for Veterans' Employment and Training and the Administrator, engage in efforts each fiscal year to identify small business concerns owned and controlled by eligible veterans in the United States. The Secretary shall inform each small business concern identified under this section that information on Federal procurement is available from the Administrator.

#### **SEC. 705. STATE OF SMALL BUSINESS REPORT.**

Section 303(b) of the Small Business Economic Policy Act of 1980 (15 U.S.C. 631b(b)) is amended by striking "and female-owned businesses" and inserting " , female-owned, and veteran-owned businesses".

#### **SEC. 706. LOANS TO VETERANS.**

Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended by inserting after paragraph (7) the following:

"(8) The Administration may make loans under this subsection to small business concerns owned and controlled by disabled veterans (as defined in section 4211(3) of title 38, United States Code)."

#### **SEC. 707. ENTREPRENEURIAL TRAINING, COUNSELING, AND MANAGEMENT ASSISTANCE.**

The Administrator shall take such actions as may be necessary to ensure that small business concerns owned and controlled by eligible veterans have access to programs established under the Small Business Act that provide entrepreneurial training, business development assistance, counseling, and management assistance to small business concerns, including, among others, the Small Business Development Center program and the Service Corps of Retired Executives (SCORE) program.

#### **SEC. 708. GRANTS FOR ELIGIBLE VETERANS' OUTREACH PROGRAMS.**

Section 8(b) of the Small Business Act (15 U.S.C. 637(b)) is amended—

(1) in paragraph (15), by striking "and" at the end;

(2) in the first paragraph designated as paragraph (16), by striking the period at the end and inserting "; and"; and

(3) by striking the second paragraph designated as paragraph (16) and inserting the following:

"(17) to make grants to, and enter into contracts and cooperative agreements with, educational institutions, private businesses, veterans' nonprofit community-based organizations, and Federal, State, and local departments and agencies for the establishment and implementation of outreach programs for disabled veterans (as defined in section 4211(3) of title 38, United States Code)."

#### **SEC. 709. OUTREACH FOR ELIGIBLE VETERANS.**

The Administrator, the Secretary of Veterans Affairs, and the Assistant Secretary of Labor for Veterans' Employment and Training, shall develop and implement a program of comprehensive outreach to assist eligible veterans, which program shall include business training and management assistance, employment and relocation counseling, and dissemination of information on veterans' benefits and veterans' entitlements.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Missouri [Mr. TALENT] and the gentleman from New York [Mr. LAFALCE] each will control 20 minutes.

The Chair recognizes the gentleman from Missouri [Mr. TALENT].

Mr. TALENT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the primary purpose of this legislation is to reauthorize the Small Business Administration and the programs which that agency oversees pursuant to the Small Business Act and the Small Business Investment Act. This reauthorization covers fiscal years 1998, 1999 and 2000. Except for a couple of new provisions added by the other body, this legislation is identical to H.R. 2261, which this House passed under suspension of the rules by a vote of 397 to 17 just 6 weeks ago.

We regularly reauthorize the bulk of the programs contained in this legislation for 3-year periods. The programs contained in this legislation include the financial programs of the SBA, the 7(a) general business loan guarantee program, the section 504 Certified Development Company program, the Microloan program, and the Small Business Investment Company program.

This legislation also changes and improves various programs, specifically modifying the section 504 Preferred Certified Lender Program, the SBIC program, the Women's Business Center program and the SBDC program. The SBA also provides hundreds of millions of dollars in vital disaster assistance to small businesses and homeowners every year, and this legislation reauthorizes that assistance.

Title VII of the measure before us is the result of the collective work of multiple committees and individual Members. It contains a number of provisions which are designed to assist the Federal Government in better serving service-disabled veterans and small businesses owned by service-disabled

veterans. These provisions are the products of bipartisan efforts by myself and the gentleman from New York [Mr. LAFALCE], our committee's ranking member, working together with the chairman of the Committee on Rules and the chairman of the Committee on Veterans' Affairs.

Section 501 of this legislation is also the product of a bipartisan and multi-committee effort both here and in the Senate. It contains most of the features of H.R. 2429, as reported by the Committee on Science, and is a 4-year reauthorization of the pilot Small Business Technology Transfer Program.

As I said earlier, Mr. Speaker, the legislation before us today has some additional components that were added since we passed it here in the House in late September. These additional elements have been added as a result of collaborative and bipartisan efforts between the House and the Senate and, in fact, have involved the collective work of multiple committees from both Houses working in conjunction with representatives of the administration.

Title VI of this legislation establishes the HUBZone program, which will provide incentives to businesses that locate in and employ residents from economically distressed areas, thereby targeting inner cities and rural communities that have low household incomes, high unemployment and whose communities have suffered from a lack of investment.

Subtitle (b) of title IV of this legislation is another component which was added to this legislation by the Senate and addresses the important small business procurement issue of contract bundling. This provision is the result of lengthy negotiations, involving several Senate and House committees and the administration.

Finally, section 507 of this legislation addresses the Defense Loan and Technical Assistance Program, or DELTA program, and is of great importance to numerous small businesses located in areas that have been adversely impacted as a result of the closing of military installations.

Mr. Speaker, I reserve the balance of my time.

Mr. LAFALCE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 1139, the Small Business Reauthorization Act of 1997.

Mr. Speaker, this legislation includes the requisite authorization for programs administered by the Small Business Administration for fiscal year 1998 and the two ensuing years. It also includes important program changes for a number of the SBA programs.

Specifically, it includes proposals for women's business development, which I advocated in separate legislation, such as making the women's business development a permanent program and increasing it to 5 years in lieu of the existing 3-year program.

It also enhances the operation of the 504 program, also known as the certified development company or CDC program, which I authored in 1980. It makes needed improvements to allow implementation of the premier lenders program, which allows SBA to delegate loan making, servicing and liquidation functions to the best CDC's. Without this delegation of authority, which results in large reductions in SBA employee time demands, this program would grind to a halt, as would the 7(a) program without its similar delegation of authority, for SBA simply does not have sufficient personnel to make and service loans today. We depend on participating lenders to serve this function under SBA guidelines and oversight.

But I would be remiss in my responsibilities as the ranking Democrat on the Committee on Small Business if I did not point out that this bill is not without concern. At Senate insistence, it includes a new program to assist economically distressed areas by channeling Federal contracting to them. Under this laudable concept, the distressed areas, called HUBZones, would receive major amounts of Federal contract dollars if the small business contractors unemployment base includes 35 percent of its workforce from these HUBZones. Further, it would increase the small business contracting goal from 20 to 23 percent, a provision I strongly favor.

I am very pleased to note that we were able to secure a major, major change from the version originally passed by the other body. The earlier version would have permitted contracts to be taken from an existing program which assists minorities and women, the 8(a) program.

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We were successful in insisting that that provision be dropped totally. The Senate insisted on all the other provisions in the HUBZone title with very little change. I resisted that, too, until specifically prevailed upon by the Small Business Administration.

Inclusion of this HUBZone concept as a permanent program without the customary trial provisions and other safeguards caused a number of Members of Congress to raise strong concerns, particularly because of the possibility of adverse impact on the 8(a) contracting program. Now, this is the most important program operated by the Federal Government to facilitate the growth and development of minority small businesses. Any proposals which might place this program in jeopardy naturally cause concern to those Members who place a high priority on the development of minority small business.

We tried very hard to get a deletion of the entire HUBZone proposal even after they had deleted every single reference to 8(a). The HUBZone proposal

is still maintained in the bill, but fortunately it confers considerable discretion on the Administrator of the SBA who will implement. After extensive discussions with Administrator Aida Alvarez, she sent me a very forceful letter explaining the administration's support for the reauthorization bill now under consideration and pledging that SBA will not permit the implementation of the HUBZone's program to negatively affect the 8(a) program. I will include Miss Alvarez' strong letter of support for the authorization bill in the RECORD for any Member who is interested.

The letter referred to is as follows:  
U.S. SMALL BUSINESS ADMINISTRATION,  
Washington, D.C., November 8, 1997.  
Hon. JOHN J. LAFALCE,  
U.S. House of Representatives,  
Washington, D.C.

DEAR REPRESENTATIVE LAFALCE: The Administration supports realization of the programs of the Small Business Administration and supports House passage of S. 1139. The bill reauthorizes small business loans which assist tens of thousands of small businesses each year and contribute to the vitality of economy. This bill recognizes the importance of women and service disabled veteran entrepreneurs. And, it makes permanent SBA's Microloan Program which helps those entrepreneurs who need very small amounts of credit. We need this legislation to ensure that we can continue to properly serve our small business customers.

Some Members have raised concerns about the HUBZones provisions in the authorization bill. Please note that unlike earlier versions of the reauthorization bill, the new version of the bill before the House has removed the harmful provisions that would have affected the current preference for 8(a) in the Defense Federal Acquisition Regulations (DFAR), and my ability to appeal contracting actions that might affect 8(a).

I can assure you that SBA will not permit the implementation of the HUBZones program to negatively affect the 8(a) program. As you know, I am a strong supporter of the 8(a) program.

Moreover, the bill will increase the federal procurement goal for small business from 20 to 23 percent—increasing opportunities for all small businesses including 8(a). With this overall increase in federal contracting dollars for small businesses there will be room for an increase in 8(a) contracts and I intend to pursue increases in 8(a) contracts aggressively.

In the SBA's strategic plan I have committed to increasing overall procurement for small disadvantaged businesses from 5.5 percent to 7 percent of all federal procurement by the year 2000. Enactment of HUBZones will not affect these goals.

It is my intention to increase 8(a) procurement as a percentage of total federal procurement. Presently, 3.2 percent of all federal procurement dollars go to the 8(a) program. Recently proposed rule changes will allow increased flexibility in small business teaming and joint ventures, and create a new mentor-protégé program. I also intend to increase 8(a) contracts through a more aggressive goaling posture with other federal agencies and through the full implementation of the new on-line PRO-Net procurement system. Enactment of HUBZones will not affect these strategies.

The bill allows federal contractors to utilize a sole source contracting vehicle to ac-

cess HUBZones companies. However, we do not believe that this provision will necessarily affect 8(a) firms. In fact, federal contracting officers may be more likely to shift competitive contracting dollars to HUBZones because of the relative ease in a sole source vehicle rather than to shift these contracts from 8(a), where the ease of procurement is already in place. In fact, 8(a) firms are exactly the kinds of firms that would most likely take advantage of the new HUBZones sole source authority—especially after they have left the 8(a) program. However, I can assure the Members of the Small Business Committee that we will take whatever steps are necessary in the rulemaking process to ensure that the new sole source provisions for HUBZones do not negatively affect 8(a). And, I will closely monitor the sole source authority when used for HUBZones. Should it be determined that there is a negative effect on 8(a), I will use my authority to appeal contracts to protect 8(a) firms.

I share your concern that SBA may not have sufficient resources to implement the HUBZones over the next several years. While the final appropriations bill has not yet been enacted, we anticipate that the appropriations bill will include enough resources to write the regulations and implement the program in the first year. As presently proposed, the SBA does not have adequate resources for full implementation of the HUBZones program. I will not increase our risks nor sacrifice the effectiveness of SBA's other programs by shifting resources from these programs to HUBZones. We will evaluate future resource needs after we have analyzed the full on-going costs of the program and provide the Congress with an estimate of these needs in our budget submission.

I will keep the Small Business Committees informed of any issues that may arise during the rulemaking process and provide the Committees with quarterly reports until the program is fully implemented. We will also continue to consult closely with the 8(a) business community during this period. After implementation, I will monitor federal procurement contracting patterns and the use of the sole source provisions for HUBZones. I will report to the Small Business Committees on a semi-annual basis about trends in federal procurement activity for small businesses and on the use of sole source contracts. As we monitor HUBZones implementation, SBA will also pursue regulatory changes within the Administration to further protect 8(a) if necessary. You also have my firm commitment that I will seek legislative changes if we identify any adverse impact on the 8(a) program as a result of this monitoring.

Finally, because the bill retains my appeal authority on behalf of 8(a), I will continue to intervene in the future, if there are any specific instances of a federal agency trying to move a contract from the 8(a) program to HUBZones.

Thank you for your consideration.

Sincerely,

AIDA ALVAREZ,  
Administrator.

Mr. Speaker, I reserve the balance of my time.

Mr. TALENT. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New York [Mrs. KELLY].

Mrs. KELLY. Mr. Speaker, I thank the gentleman from Missouri [Mr. TALENT] for yielding me time.

I rise today in strong support of S. 1139, the Small Business Programs Reauthorization and Amendments Act of

1997. This important legislation will reauthorize the lending programs of the SBA, allowing our Nation's small businesses to continue access to capital.

We are all aware of the important role that small businesses play in maintaining the economic strength of the United States. They create the vast majority of new jobs, provide countless new technological innovations, and drive economic growth in our country, and unfortunately there is often insufficient capital available for entrepreneurs to use to start up new businesses or for current small business owners to expand existing ones. This is the void that the Small Business Administration's loan guarantee programs often fill. Without passage of this important legislation, this valuable service would be threatened. Our Nation's small businesses, and indeed our economy, would suffer as a result.

The gentleman from Missouri [Mr. TALENT] and the gentleman from New York [Mr. LAFALCE] have worked very closely to put together a bipartisan bill that deserves the backing of every Member of this House. I urge my colleagues to support the small business community and support S. 1139.

Mr. LAFALCE. Mr. Speaker, I yield 3/4 minutes to the gentlewoman from New York [Ms. VELÁZQUEZ].

Ms. VELÁZQUEZ. Mr. Speaker, today we will pass this Small Business Administration reauthorization bill which provides valuable resources to a number of vital programs. While I have worked hard in support of those programs, I rise today to address some elements of the bill that I believe require further discussion.

The House Committee on Small Business, under the effective leadership of the gentleman from Missouri [Mr. TALENT] and the ranking Democrat, the gentleman from New York [Mr. LAFALCE], worked very hard to report out a bill that would have helped small business. Unfortunately we are not considering the product of our committee's work today. Instead we are considering a bill from the other body that creates a multibillion-dollar, I repeat multibillion-dollar, contracting program.

This proposal called HUBZones was never introduced in the House. This untested and untested program has not even had one hearing, not in the Committee on Small Business, the Committee on Banking and Financial Services, the Committee on Education and the Workforce, or the Committee on National Security, all of which would have jurisdiction over the HUB's provisions. Because of this failure to properly examine this program, I have my concerns about this proposal.

This program raises many serious questions. How will HUBZones work? What kind of jobs will it create? What kind of small businesses will it benefit? How will we measure its effectiveness?

How will it work with already established programs such as empowerment zones and enterprise community? The effect of this legislation will be felt by the entire small business community.

As the ranking member of the Subcommittee on Empowerment of the Committee on Small Business, I have a responsibility to bring community and economic development to our disadvantaged areas. I represent one of the first districts in this country. I know the barriers that entrepreneurs from my district and others like it must overcome. SBA already addresses these needs through a variety of programs, which raises the question of why we need another program when funding is so scarce. If the SBA is forced to spread out its resources to implement HUBZones, it will jeopardize the operations of many successful small business assistance programs.

Mr. Speaker, at this point I yield to the gentleman from New York [Mr. LAFALCE], the ranking member, and the chairman of the committee, the gentleman from Missouri [Mr. TALENT], to provide assurances that the 8(a) program will not be harmed by these new HUBZone proposals.

Mr. LAFALCE. First of all, I want to praise the gentlewoman for the outstanding work she has done on the Committee on Small Business, particularly as the ranking Democrat on the Subcommittee on Empowerment, and for the work she has done in refining the perspective of the Small Business Administration on this.

As the gentlewoman knows, the bill as originally passed by the Senate would have adversely impacted the 8(a) program as it would have changed existing law to reduce the authority of the SBA over placement of contracts within the program. That was stricken at our absolute insistence.

I have also received a very strong letter in support of the bill from Administrator Alvarez. Her letter, which I have inserted in the RECORD, provides assurance that SBA will not permit the implementation of the HUBZones Program to negatively affect the 8(a) program based upon the continuation of current 8(a) authority unchanged and the administrator's assurances. I believe the HUBZone Program can and will be implemented in a manner that will not harm 8(a) and actually might help those firms and other minority firms.

The SPEAKER pro tempore. The time of the gentlewoman from New York [Ms. VELÁZQUEZ] has expired.

Mr. TALENT. Mr. Speaker, I yield myself 30 seconds in which just to say that that is also my understanding, and I have said from the beginning, that I did not want this bill to affect the 8(a) program, and as far as I am concerned, it is out of this bill, it is not mentioned in this bill; and that the HUBZone bill is designed to provide a

little bit of an additional boost to procurement to businesses that locate in these disadvantaged areas and hire these individuals.

Mr. TALENT. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. ENGLISH], a member of the committee.

Mr. ENGLISH of Pennsylvania. Mr. Speaker, this legislation before the House today provides valuable support for a growing American economy. The programs that are reauthorized under Senate bill 1139 play a limited, but beneficial, role in promoting the most dynamic sector of the American economy, and that is small business.

Mr. Speaker, recent experience with domestic job creation is consistent. Two-thirds of the new jobs created in America are created by small employers. Small business is a critical source of economic expansion across the country whether in inner cities, developing suburbs, or rural areas. The entrepreneurship of small employers is a critical source of economic opportunity and growth in communities throughout America. Today millions of small firms and risk-taking individuals are building the economy of the next century, the economy that our children will inherit and will provide their link to the American dream.

The programs under the Small Business Administration that we are reauthorizing today will not by themselves create the American economy of the future; however by linking small businesses to sources of credit and technical assistance, the SBA has the potential to nurture entrepreneurship and promote more successful business starts and expansions.

Mr. Speaker, I strongly support the enactment of this legislation. While this Congress continues to have an aggressive agenda of encouraging small business growth through regulatory reform and tax relief, this legislation guarantees the continuation of limited, targeted, programmatic support for small businesses by the Federal Government.

As a member of the Committee on Small Business, I am acutely aware that the SBA still has a long way to go to realize its potential as a strong advocate and clearinghouse for the small business community. Nevertheless, it is important that we continue the agency's successful programs, such as the Small Business Development Centers in order to encourage job creation and job retention in the most dynamic and competitive sector of America's economy.

Mr. LAFALCE. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Virginia [Mr. SISISKY], the next most senior member on the Democratic side of the aisle of the Committee on Small Business.

Mr. SISISKY. Mr. Speaker, I rise in support of S. 1139.

Mr. Speaker, I am pleased to be able to support this reauthorization bill.

Along with other Members, I did have serious concerns about some of its provisions. But those concerns have now been addressed, at least to my satisfaction.

The legislation we have before us may have some flaws, but overall it is a very good bill and I believe it must be passed.

Many Members had legitimate concerns and strong feelings about the HUB Zones Program, in particular.

The bill passed by the House a little over month ago contained absolutely no reference to HUB Zones. The Small Business Committee held no hearings on HUB Zones. We had no chance to examine this concept closely, let alone make improvements.

The House had no role at all in the design of this program. This troubles me, and I don't think it's a very good way to legislate.

But on the whole, this is a very good bill. It reauthorizes the SBA loan programs that are the life blood of many small businesses in this country.

We know there is tremendous demand from small business for these programs.

We know that this financing meets a need that would otherwise go unmet. And we know how important financing is to small businesses, who make such an enormous contribution to economic growth and to job creation in this country.

For this reason alone, I think we have little choice but to pass this authorization bill.

S. 1139 also reauthorizes other successful programs and makes a number of program improvements that cannot be put off any longer.

I won't go into all the details, but there are several I'd like to single out. This bill makes permanent the Microloan Program, which assists the smallest of small businesses. It recognizes the importance of disabled veteran entrepreneurs.

The provisions on contract bundling should help small businesses better compete for Federal procurement opportunities. And one of SBA's most successful programs—the Women's Business Centers—is expanded.

I strongly urge my colleagues to vote for this bill. We need to work on both sides of the aisle—and with the administration—to see that it is implemented in a way that meets the needs of America's small business.

Mr. LAFALCE. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Maryland [Mr. WYNN].

Mr. WYNN. Mr. Speaker, let me begin by thanking the chairman and the ranking member of the committee for their hard work on this bill and also for addressing the potential conflict with respect to the 8(a) program and the HUBZone program. I am assured based on their comments that the 8(a) program remains intact and is not threatened by this new program.

I am very pleased to support S. 1139 because I think it is critical to the advancement of small business. Small business, as is often stated, is the engine for growth in this country. It generates over 50 percent of the gross national product. It generates more than

half of all new jobs. Small businesses also account for the employment of minorities and women and our young people. We need to promote the advancement of small business.

I am particularly impressed with this bill because it contains language that restricts the practice of bundling. I had legislation on this issue because it arose out of the White House Conference on Small Business in which small businessmen said bundling, that is, the consolidation of Federal contracts, represents a threat to our survival. Right now eight major companies get more Federal Government business than all small businesses combined. The Federal Government does about \$200 billion in contracting, so my colleagues can see this is a very important matter. This bill has language which would restrict the practice of bundling, require Government agencies to justify the use of this type of consolidation.

The bill has also other attractive features. I think it is very important that this bill continues the microlending program. Now, \$50,000 or \$100,000 or \$25,000 might not seem like a lot, but to a small businessman just starting out, to an entrepreneur, that is very important. We need to continue this program. The bill does that.

It also increases the goal for small business contracting from 20 percent to 23 percent. That is not a tremendous amount, but it is a significant amount. That could result in additional \$4 billion in Government contracts available to the small business community. This, too, is an important improvement in the bill.

I believe the bill addresses our concerns about HUBZones, creates new programs and maintains important programs for our small business community. I urge its adoption.

Mr. TALENT. Mr. Speaker, I yield 2 minutes to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Speaker, I thank the gentleman, the chairman of the Committee on Small Business, for yielding the time to me, and, Mr. Speaker, I rise in support of S. 1139, the Small Business Administration reauthorization.

□ 1645

Included in this bill is the majority of H.R. 2429, the Small Business Technology Transfer Program Reauthorization Act, which was reported out of the Committee on Science's Subcommittee on Technology as well as the full Committee on Science. My comments will focus on that aspect of the bill, although the bill in its totality is very meritorious.

STTR is an important tech transfer program that has made over 800 awards totaling over \$115 million since its inception in 1994. Nearly \$5 million of those have gone to Maryland small

businesses, just as an example. The STTR program expired on September 30 of this year, and this bill will reauthorize STTR at its current set-aside level to fiscal year 2001.

In addition, S. 1139 makes the following changes to the STTR program. First, the bill requires agencies participating in STTR to include STTR in their annual performance plans, as required by the Results Act. This provision will ensure that each agency defines its goals along with providing metrics to assist in evaluating those goals.

In concert with the performance plan, the bill requires each agency participating in the STTR and SBIR programs to include those programs in their strategic plan updates also required under the Results Act.

Second, S. 1139 contains an outreach program for States which receive less than \$5 million in awards in fiscal year 1995. This outreach program is designed to increase participation among small businesses in States that have traditionally received few STTR and SBIR awards. It is not meant to mandate that States previously underrepresented by the programs receive an increase in the number of dollar value awards, but, instead, the provision should simply increase the number and quality of applications for STTR and SBIR.

Third, S. 1139 requires agencies to collect data that will provide Congress with information on the STTR program to assist in the measurement of the program outputs and outcomes. Like the Results Act language, this provision should help ensure the program is performing in the most effective manner possible.

I want to thank the gentleman from Wisconsin [Mr. SENSENBRENNER]; the ranking member, the gentleman from California [Mr. BROWN]; and the ranking member of my subcommittee, the Subcommittee on Technology, the gentleman from Tennessee [Mr. GORDON], for their support; and, indeed, my hearty commendation and thanks to the Committee on Small Business chairman, the gentleman from Missouri [Mr. TALENT], and the ranking member, the gentleman from New York [Mr. LAFALCE]; and the gentleman from Maryland [Mr. BARTLETT], who serves on both committees.

U.S. SMALL BUSINESS ADMINISTRATION,  
Washington, DC, November 6, 1997.

Hon. F. JAMES SENSENBRENNER,  
Chairman, Committee on Science, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Section 9(b)(7) of the Small Business Act requires that the Administrator of the Small Business Administration report to the House and Senate Small Business Committees at least annually on the Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) programs of the Federal agencies. Because of your interest in small business participation in the Nation's research and development efforts, I am happy

to send this report to the House Committee on Science when I furnish it to the Committee on Small Business.

I appreciate your interest in small business research and development and look forward to any comments you may have on our report.

Sincerely,

AIDA ALVAREZ,  
Administrator.

Mr. LAFALCE. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Illinois [Mr. POSHARD].

Mr. POSHARD. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise today to support this legislation to reauthorize programs of the Small Business Administration, but with some reluctance. While I firmly believe in the mission of the SBA, certain provisions in this bill are somewhat contentious.

Funding for HUBZones is one such issue. While I certainly support the concept of spurring economic development in depressed urban and rural areas, I agree with the gentleman from New York [Mr. LAFALCE] that it would be better to have a clearer idea about the ramifications of this multibillion-dollar contracting program before it is approved.

However, I will support this package, because we should not hold up funding for other important activities of the SBA, and the gradual phase-in approach which was planned for HUBZone implementation should allow for sufficient monitoring of its effectiveness and impact on other SBA initiatives.

The goal of the SBA is to help small business owners reach their potential by providing various resources, such as loans and training. This assistance is especially important to rural communities, such as those in my congressional district, that have seen severe economic downturns over the last decade. A failure to fund these activities could reverse many positive trends.

Recent years have seen a dramatic increase in the success of women and minority-owned small businesses, and the SBA has had a significant role in this development. Failure to pass this bill would adversely affect the National Women's Business Council and would eliminate funding for 18 women's business centers, preventing thousands of women from getting necessary business training.

The Small Business Technology Transfer Program, which directs Federal R&D money to researchers, inventors, and small business people to develop the best ideas at our universities and research centers, this successful program not only gives necessary help to small businesses but helps university personnel have a hand in further developing their ideas while remaining on campus. It also would not be reauthorized.

The Preferred Surety Bond Program, which provides hundreds of millions of

dollars in surety bonds to small construction companies, would also cease to operate.

For these reasons and others, we must act now to ensure that the good work of the SBA is not impeded. I urge my colleagues to vote for this legislation.

Mr. TALENT. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. FORBES].

Mr. FORBES. Mr. Speaker, I rise today in support of the Small Business Reauthorization Act of 1997 and to commend the gentleman from Missouri [Mr. TALENT] and former chairman and now ranking member, the gentleman from New York [Mr. LAFALCE], for their devotion to the small business community and this bill.

This bill, obviously, is the underpinning on which many of the Small Business Administration programs are reauthorized. I would like the opportunity to talk at great length about many of the wonderful programs at SBA, but I will limit my remarks to the extension of the Defense Loan and Technical Assistance Program, which is commonly referred to as DELTA.

An important program that dealt with the unfortunate loss of business for many defense-dependent businesses over the last decade, the DELTA program is an important undertaking. I appreciate that the committee has sought to reauthorize not only the DELTA program, but to expand it, so that the many small businesses that could benefit, because they have had at least 25 percent of their earnings in the last 5 years dependent on defense business, as they seek to make the transition from defense-dependent businesses to other commercial applications, the DELTA program is instrumental in helping them make that kind of a transition.

It is important to understand also that the Small Business Administration is one of the few agencies or departments in the Government that almost pays for itself, helping budding entrepreneurs and small businessmen and women, who are the underpinning of the American economy. This agency does a tremendous job, and I appreciate the committee's special attention to this DELTA program.

As a former SBA regional administrator, I saw firsthand the important work that is undertaken by SBA. I appreciate the committee's work in making sure that this is a bipartisan bill, one that seeks to enhance the good work done by the Small Business Administration.

Mr. LAFALCE. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Illinois [Mr. DAVIS], an extremely valuable contributor to the Committee on Small Business and the formation of this bill.

Mr. DAVIS of Illinois. Mr. Speaker, I rise in support of the reauthorization

of the SBA bill, but I also want to commend and congratulate the gentleman from Missouri, Chairman TALENT, and the gentleman from New York, Mr. LAFALCE, the ranking member, for their exemplary leadership in bringing this legislation to the floor.

I also want to acknowledge the strong presence of the gentlewoman from New York [Ms. VELÁZQUEZ] in making sure that the 8(a) procurement program is protected at all costs.

I also would extend my appreciation to Administrator Alvarez for her sensitivity and professionalism and hard work to make sure that areas of conflict were worked out.

But I am most pleased because this legislation, in addition to all of those excellent programs that we have already heard about, the micro lending program, the 8(a) program, the 504 program, all of them are excellent. But in addition, we now have a new concept, something called HUBZones, which are designed to bring additional resources to hard-pressed, severely depressed urban and rural communities throughout America, areas that, no matter what is said, none of the other programs has been able to do as much as there is that is needed to be done.

So I am hoping that with this new addition, we will see additional improvements, additional resources. It is a great program, and I am very pleased to lend my support to it and ask that all Members vote in favor of it.

Mr. LAFALCE. Mr. Speaker, I yield 3 minutes to one of the most distinguished freshmen members of the Committee on Small Business, the gentleman from Rhode Island [Mr. WEYGAND].

Mr. WEYGAND. Mr. Speaker, I want to thank the gentleman from New York, our ranking member [Mr. LAFALCE], for his generosity and our chairman for the great work the two of them have done. I think if anyone could look at our committee and what they do, they would see this great bipartisan effort that I think really does serve not only the Members very well, but also the people of the country.

I am here to support Senate version 1139 because I think this is good for my State of Rhode Island, the small State of Rhode Island, but also good for other businesses throughout this country.

This bill authorizes SBA and its programs which will provide access to capital and services that might not be available to many of the small businesses throughout this great country.

I am a former small business owner, and I remember when I started my business in the basement of my house 15 years ago. I went down to the SBA because I knew I was a good landscape architect, I knew I could provide the services that were necessary, but I thought maybe I could extend my market area into maybe some Federal programs.

So I went down there 15 years ago, and when I came back, they had piled me down with literature and propaganda that most small business owners cannot even take the time to read, and I immediately threw it in the basket. My first impression of the SBA was a very negative one.

That is not so today. Today in Rhode Island, the SBA has done tremendous deeds to improve the small business climate of our State. Just over the last 3 years, they have more than doubled the number of loans in the 504 and the 7(a) program. Indeed, they have also done some things that we did not think were possible. Loans and assistance to minorities and to veterans and to women have more than doubled and tripled. Indeed, over one-third of all the loans given out in the State of Rhode Island are to these three groups.

The impact of small business to Rhode Island's economy cannot be overstated. In our State, over 97 percent of all the businesses are small businesses. Along with the loan programs, though, SBA provides services to assist business owners in becoming or remaining successful.

Once a loan has been given to a business, they make sure and follow through like caseworkers to be sure that businesses are fulfilling their obligation and doing well.

I also want to raise some concern that my colleagues have raised already about the HUB program. The HUBZone program is very similar to what we in many States call enterprise zones.

HUBZones and enterprise zones can have a very dark side. People can play shell games within enterprise zones, and in our State of Rhode Island they did just that. Businesses from outside of the enterprise zone moved in. They simply laid off other workers and hired them back and got the tax benefits and the contracts that were provided for people within the enterprise zone.

My concern is that under this provision of HUBZone, that we may indeed have the same kind of problems that we in Rhode Island had. Continued oversight and vigilance about this HUBZone program is extremely necessary. I know all of my colleagues are looking to Administrator Alvarez to be sure that she does not diminish the 8(a) program and sacrifice moneys because of the HUB program. I support this legislation and ask my colleagues to do the same.

Mr. Speaker, I rise in support of S. 1139, a bill to reauthorize small business programs. First, I would like to thank Chairman TALENT and Mr. LAFALCE for their leadership and for producing a bill that will undoubtedly benefit all small businesses. This bill reauthorizes the Small Business Administration and its programs which provide access to capital and services that might not otherwise be available to small business owners.

To highlight the SBA's importance, I would like to showcase what the SBA is doing in my

district, in Rhode Island. Over the past 4 years there have been significant increases in the number of Small Business Administration loans awarded. In fact, the number of loans has more than doubled. In 1993, there were 115 approved loans totaling \$32.6 million, in 1996, there were 292 loans totaling \$53.3 million.

In particular, there have been dramatic improvements in access to capital for women, minorities, and veterans in my district. In 1993, there were 8 loans to minorities, 17 to women and 14 to veterans. In 1996, we had 16 loans to minorities, 40 to women and 46 to veterans. Nearly 35 percent of all approved SBA loans in Rhode Island, are going to these three groups.

I must express some concern over one provision in this bill. The HUBZone provision included in this bill did not come before the House Small Business committee, and we did not have the opportunity to hold hearings or study the program and its potential impact on small businesses in our districts. I am concerned that there may be the unintended consequence of negatively impacting minority small businesses and 8(a) firms. It is my hope that we will be able to work with the SBA and small business groups to ensure that we continue to expand opportunities for minorities.

I cannot overstate the importance of small business on Rhode Island's economy. Approximately 97 percent of all businesses in Rhode Island are classified as small businesses. These companies employ thousands of Rhode Islanders and provide the economic foundation of my State and our country. Small businesses play a vital role in job creation and provide endless opportunities for our citizens.

Along with the financial programs, the SBA provides services to assist business owners in becoming or remaining successful. Once a business has a loan we must make sure that the business stays healthy and profitable enough to repay that loan. Services provided by programs such as Small Business Development Centers, Service Corps of Retired Entrepreneurs, Business Information Centers, Minority Enterprise Development program, and Women's Business Enterprise program supply information and counseling services to business owners. These services are invaluable to the smallest businesses who do not have the budgets to hire high-priced consultants.

We, as leaders, must do all we can to foster and encourage the development and growth of small businesses and this bill moves us in that direction. This bill will allow us to continue to support existing small businesses and encourage the development of new ones, both in Rhode Island and across the country. I urge my colleagues to support it.

Mr. TALENT. Mr. Speaker, I am happy to yield 3 minutes to our last speaker on this side of the aisle, the gentleman from Montana [Mr. HILL], an outstanding member of the committee.

Mr. HILL. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise today in strong support of Senate bill 1139, the Small Business Reauthorization Act of 1997, and I would like to first thank the gentleman from Missouri Chairman TAL-

ENT and the gentleman from New York Ranking Member LAFALCE, and especially the staff for their hard work in getting this important legislation to the floor and getting it passed. Without their tireless dedication and commitment to America's small businesses and the people who work in those small businesses, this vital authorization would not today be a reality.

Mr. Speaker, small businesses fuel our Nation's economy, and the role of Congress is an appropriate role, should be to support and encourage entrepreneurship.

□ 1700

I believe that this bill achieves this objective. We must continue to promote our economic growth throughout States like mine, Montana, by helping make them more competitive within markets and outside the United States.

I do want to point out two provisions in this bill that are extremely important to Montana. The first is the Small Business Technology Transfer program that earlier speakers talked about. I was especially pleased to see that my amendment was in the final bill. This provision will assist those 23 States that together receive fewer total SBA small business innovation research awards than the fifth-ranking State by itself. It will help our States receive more awards.

States like Montana have large numbers of small research and development businesses, and many of these businesses lack the resources for competing for small business innovation research grants. With my amendment, the playing field will be leveled by giving assistance to these businesses in applying for these awards while establishing performance goals to them.

Second is a provision in the Small Business Investment Company that addresses underserved areas like Montana. Montana is one of the few States that has never had a licensed Small Business Investment Company. With this provision, it will enable Montana to apply and hopefully qualify for this much-needed license. Approximately 98 percent of Montana's businesses are considered small businesses by definition. As a matter of fact, Mr. Speaker, 95 percent of the people in Montana work for a business that employs less than 50 employees. An SBAC license in the State of Montana will provide the necessary capital to fuel Montana's small business and small business growth.

Mr. Speaker, I urge my colleagues to vote for this bill.

Mr. Speaker, I rise today in strong support of S. 1139, the Small Business Reauthorization Act of 1997. I first would like to thank Chairman TALENT, Ranking Member LAFALCE and especially the staff, for their hard work in getting this very important legislation to the floor. Without their tireless dedication and commitment to America's small businesses,

this vital authorization would not have become a reality.

Mr. Speaker, small businesses fuel our Nation's economy. The role of Congress should be to support and encourage entrepreneurship. And I believe that this bill achieves this objective. We must continue to promote economic growth throughout States like Montana, making them competitive in markets within and outside the United States.

I would like to point out two provisions in the bill that are extremely important to Montana. First is the Small Business Technology Transfer program. I was especially pleased to see that my amendment was in the final bill. This provision will assist those 23 States that together receive fewer total Small Business Innovation Research [SBIR] awards than the fifth ranking State by itself. States like Montana have large numbers of small Research and Development businesses, and many of these businesses lack the resources to compete for SBIR awards. With my amendment, the playing field will be leveled by giving assistance to these businesses in applying for the awards, while establishing performance goals.

Second is a provision in the Small Business Investment Company [SBIC] that addresses underserved areas like Montana. Montana is one of the few States that have never had a licensed SBIC. With this provision, it will enable Montana to apply and hopefully qualify for this much needed license. Approximately 98 percent of Montana's businesses are considered small businesses by definition, and an SBIC in the State will provide the necessary capital to fuel Montana's small businesses.

Mr. Speaker, I urge my colleagues to vote for the bill.

Mr. LAFALCE. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Texas [Mr. BENTSEN], perhaps the House's most knowledgeable Member on questions of securitization.

Mr. BENTSEN. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, it is late in the session. We are talking about the SBA reauthorization. It is like the great American philosopher who said it is *deja vu* all over again, and now we are once again trying to get to the issue of what is going to happen with securitization.

It was a year ago that the Committee on Small Business in both the House and the other body attempted to deal with this issue. We saw some language that was never passed, and now we have the Small Business Administration also trying to deal with this issue.

This all began in part because of an attempt on the part of both committees to try and level the playing field between banks and nonbanks in the securitization of the unguaranteed portion of 7(a) loans, which I think all of us support and does create capital. But there have been attempts, I think, to rigidly try and define the structure of that securitization which could, in fact, reduce the amount of capital that is available. I would like to engage in a brief colloquy with the ranking member and the chairman, if I might.

It is my understanding that the current bill we are considering today includes no language instructing SBA on how to define any credit test to securitization. My concern continues to be that the SBA may come up with a definition which is too rigid, on the one hand, which tries to have a one-size-fits-all for both banks and nonbanks, and confuses market concentration with creditworthiness, which is what I believe both the ranking member and the chairman's intent was when we looked at this issue in the last Congress.

Mr. LAFALCE. Mr. Speaker, will the gentleman yield?

Mr. BENTSEN. I yield to the gentleman from New York.

Mr. LAFALCE. I concur with the remarks of the gentleman from Texas completely.

Mr. TALENT. Mr. Speaker, will the gentleman yield?

Mr. BENTSEN. I yield to the gentleman from Missouri.

Mr. TALENT. Mr. Speaker, I do also, and certainly would hope that the agency will move toward as much securitization as financial soundness permits. That is what the committee has been working to accomplish.

Mr. BENTSEN. Mr. Speaker, I thank the chairman and ranking member.

I rise in support of the bill, and I appreciate the hard work that they have done.

Mr. LAFALCE. Mr. Speaker, I yield 30 seconds to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the ranking member and the chairman for the very strong support of small businesses.

Let me say that I rise to support this authorization act because of the Microloan Program, the supporting of the National Women's Business Council Program, and as well the fact that we are not disturbing the 8(a) programs that help create jobs in America. Let me compliment my own small business regional office and Mr. Wilson, and I hope that we will continue to stand on the side of small businesses.

Mr. TALENT. Mr. Speaker, I would be happy to yield if the gentleman wants a little more time. I yield 1 minute to the gentleman from New York [Mr. LAFALCE].

Mr. LAFALCE. Mr. Speaker, I would like to take this time to thank the chairman of our committee, the gentleman from Missouri [Mr. TALENT], for all of the kindnesses that he has shown me in his position. He has proven himself to be an excellent chairman, certainly one that has been a pleasure for me to work with. He has the ability to be both gentle, cooperative and firm all at the same time, and I am sure that he is going to go on to great things in life, not only in the House of Representatives, but perhaps even higher.

I also want to extol our staff. My tremendous staff, both Tom Powers,

Jeanne Roslanowick and others, but also the majority staff. They have tremendous expertise and dedication; they have worked together as one staff in order to produce the best possible bill, regardless of politics, regardless of partisanship. So it has been a pleasure for me to work with all of them on this reauthorization bill.

Mr. TALENT. Mr. Speaker, in closing, I yield myself such time as I may consume.

I want to echo the remarks of the gentleman from New York [Mr. LAFALCE], except in reverse. It has been a great pleasure this year to work with him. We all know that the gentleman knows how to be firm; he also does know how to be, and has been consistently, cooperative, and I have been very grateful to him for that.

Also, I want to recognize the great depth of his knowledge in this field. We are passing, I hope and believe today, yet another reauthorization bill, and it will reflect yet again his great influence and his great expertise in this area.

I want to thank also the members on both sides of the committee. The House has heard many of them today, and I am proud to chair a committee with so many committed and dedicated individuals.

Mr. Speaker, this legislation is the product of bipartisan and bicameral efforts to reauthorize the Small Business Administration through fiscal year 2000. It reflects the efforts of many individuals and committees and their staffs. I would like to thank the gentleman from Wisconsin [Mr. SENSENBRENNER], the chairman of the Committee on Science; and the gentleman from California [Mr. BROWN], his ranking member, for their work on H.R. 2429, which has in large part become section 501 of this legislation. I would also like to express my appreciation to their staff who worked on this.

I would also like to thank the gentleman from Arizona [Mr. STUMP], the chairman of the Committee on Veterans' Affairs, and the gentleman from New York [Mr. SOLOMON], the chairman of the Committee on Rules, along with their staffs, for their help in working on title VII of this legislation. As I have already said, I want to extend my thanks and appreciation to the gentleman from New York [Mr. LAFALCE], the committee's ranking member, for his help in crafting this legislation.

Finally, I would like to acknowledge the Committee on Small Business staff who worked on this bill: Emily Murphy, Mary McKenzie, Kiki Kless, Paul Denham, Charles "Tee" Rowe, and Harry Katrichis for the majority, and Jeanne Roslanowick, Steve McSpadden and Tom Powers for the minority.

I urge my colleagues, in closing, to vote for this important piece of legislation.

Mrs. MINK of Hawaii. Mr. Speaker, I rise today to express my concerns regarding S.

1139, the Small Business Authorization Act. I will vote for this bill because it is essential for the continuation of programs which assist small businesses in this country. However, I have serious concerns regarding a specific provision included by the Senate, which could impact the current 8(a) program for minority- and women-owned businesses.

S. 1139 establishes a new program to increase access to Federal contracts for small businesses in economically distressed areas. While the goal of this new HUBZone program seems laudable enough, I have strong reservations regarding its potential impact on the existing and successful 8(a) program for minority- and women-owned businesses.

It is no secret that many in the majority want to get rid of the 8(a) program and other forms of affirmative action. I fear that the establishment of these HUBZones is a backdoor attempt to weaken 8(a) and affirmative action.

The 8(a) program is specifically targeted to assist businesses owned by minorities and women, which have historically had difficulty in obtaining contracts and subcontracts from the Federal Government. The new HUBZone program would be open to all small businesses within these zones, not just those which are disadvantaged in any way. And these businesses within the HUBZones will compete with the 8(a) businesses for the limited number of Federal contracts.

Also of concern is that under this provision Federal agencies would be allowed to use sole-source contracts in HUBZones which cuts out the competitive nature of Federal contracting altogether, and further erodes opportunities for 8(a) businesses.

The Senate has failed to provide enough funding for the administration of this new program. The Congressional Budget Office estimates that \$12 million is needed annually to implement the HUBZone program. The bill provides only \$1.2 million. This raises concerns regarding adequate oversight and evaluation of this new program. If we are to accurately assess whether this new program is affecting the 8(a) program we need to have the appropriate monitoring systems in place. The lack of funding causes concerns in this regard.

Mr. Speaker, I have discussed these concerns with the Administrator of the Small Business Administration, who assured me that the Administration will closely monitor this new program and its impact on the 8(a) program. She also indicated that in administering the HUBZone program, they would take steps necessary to assure that 8(a) was not adversely impacted.

Mr. Speaker, had this bill come up under regular order, and not under the expedited suspension procedures we would have had the opportunity to address many of our concerns through the amendment process. As we are in the last 2 days of the congressional session this year, I understand the need to utilize expedited procedures to assure that critical small business programs are funded.

Therefore, I will support this bill. I note for the RECORD that I will watch closely the development of this program and monitor its impact on the 8(a) minority- and women-owned business program.

Mr. TALENT. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. All time has expired.

The question is on the motion offered by the gentleman from Missouri [Mr. TALENT] that the House suspend the rules and concur in the Senate amendment to the House amendment to S. 1139.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment to the House amendment was concurred in.

A motion to reconsider was laid on the table.

#### GENERAL LEAVE

Mr. TALENT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on S. 1139, the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

#### MICROCREDIT FOR SELF-RELIANCE ACT OF 1997

Mr. GILMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1129) to establish a program to provide assistance for programs of credit and other assistance for microenterprises in developing countries, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1129

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Microcredit for Self-Reliance Act of 1997".

#### SEC. 2. FINDINGS AND DECLARATIONS OF POLICY.

The Congress makes the following findings and declarations:

(1) More than 1,000,000,000 people in the developing world are living in severe poverty.

(2) According to the United Nations Children's Fund (UNICEF), mortality for children under the age of 5 averages 100 child deaths per thousand for all developing countries, with nearly double that rate in the poorest countries.

(3) Nearly 35,000 children die each day from largely preventable malnutrition and disease.

(4)(A) Women in poverty generally have larger work loads, and less access to educational and economic opportunities than their male counterparts.

(B) Directly aiding the poorest of the poor, especially women, in the developing world has a positive effect not only on family incomes, but also on child nutrition, health and education, as women in particular reinvest income in their families.

(5)(A) The poor in the developing world, particularly women, generally lack stable employment and social safety nets.

(B) Many turn to self-employment to generate a substantial portion of their livelihood.

(C) These poor entrepreneurs are often trapped in poverty because they cannot obtain credit at reasonable rates to build their asset base or expand their otherwise viable self-employment activities.

(D) Many of the poor are forced to pay interest rates as high as 10 percent per day to money lenders.

(6)(A) On February 2-4, 1997, a global microcredit summit was held in Washington, District of Columbia, to launch a plan to expand access to credit for self-employment and other financial and business services to 100,000,000 of the world's poorest families, especially the women of those families, by 2005.

(B) With five to a family, achieving this goal will mean that the benefits of microcredit will thereby reach nearly half of the world's more than 1,000,000,000 absolute poor.

(7)(A) The poor are able to expand their incomes and their businesses dramatically when they can access loans at reasonable interest rates.

(B) Through the development of self-sustaining microcredit programs, poor people themselves can lead the fight against hunger and poverty.

(8)(A) Nongovernmental organizations such as the Grameen Bank, Accion International, and the Foundation for International Community Assistance (FINCA) have been successful in lending directly to the very poor.

(B) These institutions generate repayment rates averaging 95 percent or higher, demonstrating the bankability of the poorest.

(C) International organizations such as the International Fund for Agricultural Development (IFAD) and the United Nations Development Program (UNDP) have demonstrated success in supporting microcredit programs.

(9)(A) Microcredit institutions not only reduce poverty, but also reduce the dependency on foreign assistance.

(B) Interest income on a credit portfolio can be used to pay recurring institutional costs, assuring the long-term sustainability of development assistance.

(10) Microcredit institutions leverage foreign assistance resources because loans are recycled, generating new benefits to program participants.

(11) The development of sustainable microcredit institutions which provide credit and training, and mobilize domestic savings, are critical components to a global strategy of poverty reduction and broad based economic development.

(12)(A) In 1994, the United States Agency for International Development launched a microenterprise initiative in partnership with the Congress.

(B) The initiative committed to expanding funding for the microenterprise programs of the Agency, and set a goal that, by the end of fiscal year 1996, half of all microenterprise resources would support programs and institutions providing credit to the poorest, with loans under \$300.

(C) In order to achieve the goal of the microcredit summit, increased investment in microcredit institutions serving the poorest will be critical.

(13) Providing the United States share of the global investment needed to achieve the goal of the microcredit summit will require only a small increase in United States funding for international microcredit programs, with an increased focus on institutions serving the poorest.

(14)(A) In order to reach tens of millions of the poorest with microcredit, it is crucial to expand and replicate successful microcredit institutions.

(B) These institutions need assistance in developing their institutional capacity to expand their services and tap commercial sources of capital.

(15) Nongovernmental organizations have demonstrated competence in developing networks of local microcredit institutions so that they reach large numbers of the very poor, and achieve financial sustainability.

(16) Recognizing that the United States Agency for International Development has developed very effective partnerships with nongovernmental organizations, and that the Agency will have fewer missions to carry out its work, the Agency should place priority on investing in these nongovernmental network institutions through the central funding mechanisms of the Agency.

(17) By expanding and replicating successful microcredit institutions, it should be possible to create a global infrastructure to provide financial services to the world's poorest families.

(18)(A) The United States Agency for International Development can provide leadership to other bilateral and multilateral development agencies as such agencies expand their support to the microenterprise sector.

(B) The United States Agency for International Development should seek to improve coordination of donor efforts at the operational level to promote the use of best practices in the provision of financial services to the poor and to ensure that adequate institutional capacity is developed.

(19) Through expanded support for microcredit, especially credit for the poorest, the United States Agency for International Development can continue to play a leadership role in the global effort to expand financial services and opportunity to 100,000,000 of the poorest families on the planet.

### SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to provide for the continuation and expansion of the commitment of the United States Agency for International Development to the development of microenterprise institutions;

(2) to make microenterprise development the centerpiece of the overall economic growth strategy of the United States Agency for International Development;

(3) to support and develop the capacity of United States and indigenous nongovernmental organization intermediaries to provide credit, savings, and training services to microentrepreneurs;

(4) to increase the amount of assistance devoted to credit activities designed to reach the poorest sector in developing countries, and to improve the access of the poorest, particularly women, to microenterprise credit in developing countries; and

(5) to encourage the United States Agency for International Development to provide global leadership in promoting microenterprise for the poorest among bilateral and multilateral donors.

### SEC. 4. MICRO- AND SMALL ENTERPRISE DEVELOPMENT CREDITS.

Section 108 of the Foreign Assistance Act of 1961 (22 U.S.C. 2151f) is amended to read as follows:

#### “SEC. 108. MICRO- AND SMALL ENTERPRISE DEVELOPMENT CREDITS.

“(a) FINDINGS AND POLICY.—The Congress finds and declares that—

“(1) the development of micro- and small enterprise, including cooperatives, is a vital factor in the stable growth of developing countries and in the development and stability of a free, open, and equitable international economic system;

“(2) it is, therefore, in the best interests of the United States to assist the development of the private sector in developing countries and to engage the United States private sector in that process;

“(3) the support of private enterprise can be served by programs providing credit, training, and technical assistance for the benefit of micro- and small enterprises; and

“(4) programs that provide credit, training, and technical assistance to private institutions can serve as a valuable complement to grant assistance provided for the purpose of benefiting micro- and small private enterprise.

“(b) PROGRAM.—To carry out the policy set forth in subsection (a), the President is authorized to provide assistance to increase the availability of credit to micro- and small enterprises lacking full access to credit, including through—

“(1) loans and guarantees to credit institutions for the purpose of expanding the availability of credit to micro- and small enterprises;

“(2) training programs for lenders in order to enable them to better meet the credit needs of micro- and small entrepreneurs; and

“(3) training programs for micro- and small entrepreneurs in order to enable them to make better use of credit and to better manage their enterprises.

“(c) ELIGIBILITY CRITERIA.—The Administrator of the United States Agency for International Development shall establish criteria for determining which entities described in subsection (b) are eligible to carry out activities, with respect to microenterprises, assisted under this section. Such criteria may include the following:

“(1) The extent to which the recipients of credit from the entity do not have access to the local formal financial sector.

“(2) The extent to which the recipients of credit from the entity are among the poorest people in the country.

“(3) The extent to which the entity is oriented toward working directly with poor women.

“(4) The extent to which the entity recovers its cost of lending to the poor.

“(5) The extent to which the entity implements a plan to become financially sustainable.”

### SEC. 5. MICROENTERPRISE DEVELOPMENT GRANT ASSISTANCE.

Chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) is amended by adding at the end the following new section:

#### “SEC. 129. MICROENTERPRISE DEVELOPMENT GRANT ASSISTANCE.

“(a) AUTHORIZATION.—(1) In carrying out this part, the Administrator of the United States Agency for International Development is authorized to provide grant assistance for programs of credit and other assistance for microenterprises in developing countries.

“(2) Assistance authorized under paragraph (1) shall be provided through organizations that have a capacity to develop and implement microenterprise programs, including particularly—

“(A) United States and indigenous private and voluntary organizations;

“(B) United States and indigenous credit unions and cooperative organizations; or

“(C) other indigenous governmental and nongovernmental organizations.

“(3) Approximately one-half of the credit assistance authorized under paragraph (1) shall be used for poverty lending programs, including the poverty lending portion of mixed programs. Such programs—

“(A) shall meet the needs of the very poor members of society, particularly poor women; and

“(B) should provide loans of \$300 or less in 1995 United States dollars to such poor members of society.

“(4) The Administrator should continue support for mechanisms that—

“(A) provide technical support for field missions;

“(B) strengthen the institutional development of the intermediary organizations described in paragraph (2); and

“(C) share information relating to the provision of assistance authorized under paragraph (1) between such field missions and intermediary organizations.

“(b) MONITORING SYSTEM.—In order to maximize the sustainable development impact of the assistance authorized under subsection (a)(1), the Administrator shall establish a monitoring system that—

“(1) establishes performance goals for such assistance and expresses such goals in an objective and quantifiable form, to the extent feasible;

“(2) establishes performance indicators to be used in measuring or assessing the achievement of the goals and objectives of such assistance; and

“(3) provides a basis for recommendations for adjustments to such assistance to enhance the sustainable development impact of such assistance, particularly the impact of such assistance on the very poor, particularly poor women.”

### SEC. 6. MULTILATERAL COOPERATION WITH THE INTERNATIONAL FUND FOR AGRICULTURAL DEVELOPMENT.

(a) FINDINGS.—The Congress finds the following:

(1)(A) The International Fund for Agricultural Development (“IFAD”) has as its mission serving the poorest of the poor in rural areas.

(B) IFAD has had two decades of experience in assisting the economic development of the rural poor.

(2) IFAD has been a significant supporter of microenterprise and other microfinance activities for the rural poor almost since its inception and it was the first international institution to assist the Grameen Bank.

(3) IFAD can make a significant contribution to developing a global network of sustainable microenterprise and other microfinance institutions which serve the very poor through support for nongovernmental organizations and other community-based microcredit institutions.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) the United States Agency for International Development, in carrying out sections 108 and 129 of the Foreign Assistance Act of 1961, as added by sections 4 and 5 of this Act, respectively, shall seek to cooperate with IFAD in order to compliment and expand the activities of IFAD, especially with respect to institutional development; and

(2) the United States should continue to support and contribute to the activities of IFAD, especially activities related to microenterprise and microfinance, including the Microfinance Capacity Building Grant Initiative.

### SEC. 7. UNITED NATIONS DEVELOPMENT PROGRAM'S MICROSTART PROGRAM.

It is the sense of the Congress that—

(1) the Microstart Program established by the United Nations Development Program (UNDP) represents an important new initiative; and

(2) the President should instruct the United States representative to the United Nations to use the voice and vote of the United States to support the Microstart Program of the United Nations Development Program.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. GILMAN] and the gentleman from Connecticut [Mr. GEJDENSON] each will control 20 minutes.

The Chair recognizes the gentleman from New York [Mr. GILMAN].

GENERAL LEAVE

Mr. GILMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this measure.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1129, the Microcredit for Self-Reliance Act of 1997, was introduced last March by a distinguished member of our committee, the gentleman from New York [Mr. HOUGHTON], along with the gentleman from Ohio [Mr. HALL]. The bill is an impressive work that has gained over 90 cosponsors from both sides of the aisle. I want to thank the gentleman from New York [Mr. HOUGHTON] and the gentleman from Ohio [Mr. HALL] for their work on this important issue. They have become the best allies of my colleague from Connecticut [Mr. GEJDENSON] and myself on our work to promote microenterprise development.

Mr. Speaker, over the years many of us have become aware of Dr. Yunus's Grameen Bank and the 98 percent repayment rate that his bank has received for loans to the poorest of the poor who never had any prior access to credit. Microenterprise lending has now become widespread throughout the world, helping people lift themselves out of poverty. This example has now hit home where microcredit activities are lifting Americans out of poverty in cities such as Boston, New York, and Los Angeles. I especially commend the gentleman from Florida [Ms. ROSLEHTINEN] for her work on this issue.

Two years ago the gentleman from Connecticut [Mr. GEJDENSON] and I joined together to pass the Microenterprise Act. After weeks of negotiations, we were finally able to hammer out an agreement acceptable to the administration, to Congress, and to outside groups, including Results and the Microenterprise Coalition. That bill passed the House with flying colors, but regrettably was held up in the Senate by 1 Senator who linked the bill to extraneous issues.

Today the gentleman from Connecticut [Mr. GEJDENSON] and I are asking the House to pass this bill once again and to work with our colleagues

in the Senate to seek its adoption in the other body.

In committee, we amended the initial bill to delete any earmarks and inserted the text of the Microenterprise Act that enjoys the support of both the administration and the Senate Committee on Foreign Affairs, and while the gentleman from Connecticut [Mr. GEJDENSON] and I would want AID to spend more money on microenterprise activities, we recognize at this late date that we have to work with the administration in order to get a bill hotlined in the Senate and signed by the President. We were pleased to welcome the First Lady to our Committee on International Relations just this past summer to rededicate ourselves to AID's microenterprise initiative.

In summary, the bill before us does a number of important things. It underscores microenterprise activities as one of the most important parts of our development assistance programs. It rewrites a long defunct section of the Foreign Assistance Act to govern microenterprise credits. These credits should focus on the poor, especially on women. It adds a section to the Foreign Assistance Act governing microenterprise grants. It clearly states that one-half of the credit assistance should be provided in loans of \$300 or less and requires AID to report back to us on just how they are reaching the poorest of the poor.

Finally, it commends other leading micro-finance organizations like the International Fund for Agricultural Development and the United Nations Development Program for taking the multilateral lead in the microcredit world. Earlier this year, we came together at the Microcredit Summit in Washington, the first summit ever organized by an NGO. At that time, we dedicated ourselves to providing credit to half the world's poor in the next decade. AID's funding for microcredit is currently falling short of that goal, and we are hoping that this bill will help reenergize their efforts and ours to foster this important program.

In sum, I urge the adoption of this measure.

Mr. Speaker, I reserve the balance of my time.

Mr. GEJDENSON. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. HALL], the author of the legislation, a gentleman who has put in a great effort, not just here today, but through the years in the area of the poor and the needy.

Mr. HALL of Ohio. Mr. Speaker, I want to thank the gentleman from Connecticut [Mr. GEJDENSON], for his very kind remarks and certainly his leadership on the committee and his work on microenterprise; the gentleman from New York [Mr. GILMAN], for his work for many years now; and the gentleman from Tennessee [Mr.

CLEMENT] for his great support, the gentlewoman from Florida [Mrs. ROSLEHTINEN] for her tremendous support on the subcommittee, and certainly the gentleman from New York [Mr. HOUGHTON], the chief sponsor of the bill. He has shown great leadership on the bill. He is a real fighter for programs, as all of these Members of Congress are. They are certainly fighters that help the poor to help themselves, and there is no better example of such assistance than microcredit programs.

I am a firm believer that if we invest in the poor through programs such as microcredit and basic education, child survival types of activities and rural development, if we help the poor to gain access to the marketplace and share in the benefits of economic growth, the returns will justify such investments many times over. In terms of political, economic and social stability, they will reap the benefits.

□ 1715

The bill before us today represents a significant compromise from our original proposal. It is certainly not everything we wanted, and in my view, we have much more work to do.

The initial purpose of H.R. 1129 was to show support for a firm U.S. commitment to the 1997 microcredit summit goal of reaching 100 million of the world's poorest families, especially the women of those families. The goal is widely supported by the administration, the World Bank and other financial institutions, and many, many world leaders who pledged their support at the microcredit summit.

Not long ago the First Lady came up to the Hill to help kick off USAID's renewed commitment to its microenterprise initiative. In that spirit our bill called for a greater investment of our foreign aid dollars in microcredit projects. The unfortunate irony is that despite all of this broad, resounding support, funding is being cut in this area. Only \$120 million was requested for microcredit programs in fiscal year 1998, down from \$140 million in 1997.

I fully understand that cuts in development assistance have made tough choices necessary, but many of us have fought hard against further cuts in development assistance. I would hope that we have reached a point where such cuts have finally bottomed out.

I would also emphasize that during the period from fiscal year 1988 through fiscal year 1991, we had a legislative earmark for microcredit programs in place. In my view, if an earmark is what it takes to maintain adequate funding levels for this important program, and the evidence clearly supports that position in this case, then it ought to be reinstated.

I also regret that provisions calling for stronger U.S. support for rural microcredit programs implemented by IFAD were dropped from the bill. IFAD

is a small but effective agency focused uniquely on combatting rural poverty and hunger at the grassroots level.

Despite its shortcomings this bill does, nonetheless, lay important groundwork for future strengthening of these programs. It retains small but important gains for microcredit programs. So even though I think we can and should be doing more in this area, this bill marks an important step forward for microcredit programs.

I certainly urge my colleagues to support it, and I want to thank the committee for moving on this bill.

Mr. GILMAN. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from New York [Mr. HOUGHTON], a member of our committee.

Mr. HOUGHTON. Mr. Speaker, I would like to stand in strong support of H.R. 1129. It is the right bill, it is the right time. It is not enough money, but it is as good as we could possibly do under the circumstances. I think the direction is absolutely solid, right on. It complements the USAID program. I do not think there is any question about that. I believe there is no opposition to that.

Mr. Speaker I would like to, if I could, just mention several names of people: Obviously, the gentleman from Ohio, Mr. HALL, has been a tremendous sponsor of this; and the gentleman from Connecticut, Mr. GEJDENSON, and my chairman; the gentleman from New York, Mr. GILMAN, the gentleman from Indiana, LEE HAMILTON, the gentleman from Florida, Ms. ILEANA ROSLEHTINEN, the gentleman from Texas, Mr. DICK ARMEY, for letting us bring this thing to the floor.

I would also like to mention several other individuals: The gentleman from Colorado Mr. DAN SCHAEFER, the gentleman from California, Mr. ESTEBAN TORRES, the gentleman from New York, Mr. JIM WALSH, the gentleman from Hawaii, Mr. NEIL ABERCROMBIE, the gentleman from North Carolina, Mr. MEL WATT, the gentleman from Kentucky, Mr. RON LEWIS, the gentleman from Michigan, Mr. DAVE BONIOR, the gentleman from Alaska, Mr. DON YOUNG, the gentleman from Washington, Mr. JIM MCDERMOTT, the gentleman from Ohio, Mr. STEVE CHABOT, the gentleman from Vermont, Mr. BERNIE SANDERS. Members can see we have a real spectrum of people in support here.

Also there is an important outside group called RESULTS, particularly Jo Ann Carter and Leila Nimatallah, who really have promoted this bill along and have had a great deal to do with the microcredit summit.

Mr. Speaker, very briefly, this original bill increased the amount of money for USAID. That was not possible because of the budget restrictions. It was pared down. Now we have a lesser amount of money. The new version of the bill does not provide any additional funds for this program.

But what the bill does is to instruct the people at USAID to the best of their ability to ensure that half of these moneys go to people who are requiring \$300 or less, think of it, \$300 or less, to start little businesses; really, the poorest of the poor, as the chairman has mentioned. It is an absolutely great idea.

The concept that Mr. Yousef in Bangladesh started is something I think that really could have enormous impact in the rest of the world. We also have monitoring positions here, and we are going to watch the implementation of the program so it does not get out of hand.

So very briefly, Mr. Speaker, since so much already has been said about this, I urge my colleagues to support this bill today. It is a truly bipartisan measure.

Mr. GEJDENSON. Mr. Speaker, I yield 5 minutes to the gentleman from Tennessee [Mr. CLEMENT].

Mr. CLEMENT. Mr. Speaker, I thank the gentleman from Connecticut for yielding time to me.

Mr. Speaker, I rise in strong support of H.R. 1129, the Microcredit for Self-Reliance Act of 1997. In particular, I would like to thank my friends and colleagues, the gentleman from New York, Mr. AMO HOUGHTON, and also the gentleman from Ohio, Mr. TONY HALL, for seeing that the issue of microfinance and microcredit receives congressional attention. I am a cosponsor of this bill, and very supportive of microcredit and the aim of thoughtfully assisting the poor who wish to help themselves.

Microcredit is a responsible and effective tool in fighting poverty. I have heard a number of stories that tell of the successes of microcredit. One of many examples is that of a woman in Bangladesh whose husband had died. Without any income, she was forced to sell all of her possessions to feed her little girl. She was forced to go from shack to shack, begging to sleep on the dirt floors of those who were barely better off than she.

A microcredit representative came to her village and told her that she could get a loan to help her improve her position; imagine that, a woman who had lost her husband, lost all of her possessions, so poor that she was forced to beg to live on floors of her neighbors.

This woman is told that she can have a loan; not a big loan, a loan that was under \$40. How powerful and empowering is someone saying, I have faith in you and we are going to give you a chance. The microcredit representative in her community helped her develop a business plan. She purchased a hen. She would keep some of the eggs for her daughter and herself, and sell the rest. Soon she was able to pay off the loan and buy some goats. Now she has a small farm and home, all of this from a \$40 loan. She was begging to live on dirt floors, and because someone was

willing to give her a small loan, she was able to become a strong contributing member of her society.

There are many stories like this that have been shared by others already today. How can we not feel good and want to encourage programs such as this? In hearings on this issue, my colleagues on the Committee on International Relations were very accepting and positive in their discussions of the Houghton-Hall bill.

Ironically, USAID assistance to microcredit for fiscal year 1998 is \$20 million less than it was in fiscal year 1994, despite the effectiveness of microcredit programs, with loan repayments of over 90 percent. It seems that the logical step would be an increase, rather than a decrease, of our earmarks for microcredit. We must work to guarantee that these recommendations be understood as a legislative distinction intended to reach those at the very bottom of the economic ladder, thereby ensuring we sufficiently reach those with the greatest need.

Having said that, I will support the Gilman compromise bill, noting that it is a beginning. More needs to be done to expand and protect effective microcredit funding. I look forward to working with my colleagues in microcredit initiatives as we work to creatively find ways to assist those with the greatest need.

Mr. GILMAN. Mr. Speaker, I am pleased to yield 1 minute to the gentleman from Nebraska [Mr. BEREUTER], the chairman of our committee.

Mr. BEREUTER. Mr. Speaker, I thank the gentleman from New York for yielding me the time.

Mr. Speaker, I want to speak in strong support of the Houghton resolution. I think it is very important in many ways. I know I first became familiar with the kind of microenterprise work when FINCA came to the Hill and talked about their work in the Central Andes countries. We knew, of course, about the Gramine Bank and its wonderful work.

The amount of money that really makes a difference, a very small loan, usually very rapidly repaid, can really turn around a person and a family's life. I think we ought to be spending more of our resources here. It is a big bargain.

I commend the gentleman for his effort, and all of the people who have supported this legislation which the gentleman from New York [Mr. HOUGHTON] generously listed, and the many Members who are very supportive of this legislation. I urge its strong support.

Mr. GEJDENSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to say a few words myself, obviously to commend the participants, the chairman of the committee, the gentleman from

New York [Mr. HOUGHTON] and the gentleman from Ohio [Mr. HALL], and others who have been involved in this; also, the First Lady, for coming here to renew our commitment to microenterprise loans, and clearly Mr. Atwood, who has done a spectacular job with this program. Without Mr. Atwood's help on this and leadership, we would not be where we are today.

I would like to take one moment to tell a family story. My family came to this country in 1950. My parents had survived Hitler and Stalin. I was born in a refugee camp run by the United Nations in Germany. We got to New York in October 1949. My father spent a little time in New York and in Boston, the family did, and he wanted to work for himself.

There was an organization called the Gmeeloes Hessed that gave no-interest loans under the assumption that when you made it, you paid it back and kicked in a little for the next folks. That enabled us to buy the dairy farm that my family still lives on.

When we look around globally, there is probably no program that this country has ever been involved in that has really had the kind of positive impact in so many ways, not just for the individuals who get the loan, but what we find is many of these loans, like from the Gramine Bank, end up going to women, with a repayment rate far higher than loans that go to people in very high incomes. The repayment rate here is above 90 percent.

What we find is oftentimes these women end up bringing their husbands into the business because they need assistance, and as a result of that they end up decreasing the surplus of day laborers, which means everybody in the village does a little better.

So again, Mr. Speaker, I would say to the gentleman from Nebraska [Mr. BE-REUTER], the gentleman from New York [Mr. HOUGHTON], and all our friends on both sides of the aisle, this is a great program. It is something that we as Americans can be very proud of that we continue to do this.

Mr. Speaker, I yield such time as she may consume to the gentleman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the kind gentleman from Connecticut for yielding time to me. I know his passion. I appreciate the leadership of the chairman of the committee, the gentleman from New York [Mr. GILMAN], on this issue as well.

Mr. Speaker, let me talk from personal experience, for I think today being a day that many Americans gather to worship, there is a parable, if you will, that is somewhat similar to a discussion that many have about how we help those who help themselves. Certainly there is the issue of how Jesus fed the multitude at the mountain, taking a couple of fishes and

loaves of bread and multiplying it into serving a multitude of people.

There is also a phenomenon that says, it is better to teach someone how to fish than to give them the fish.

□ 1730

This is what this program represents. These microloans are a statement of self-reliance. They are, in fact, a strong response to individuals in the international arena being able to help themselves. In particular, I have seen these loans work in places like Africa, where the women, who have traditionally been the market women in Africa, have used a lot of these microloans to in fact engage in enhancing and encouraging their business.

Microenterprises are very small, informally organized businesses. Other than those that grow crops, often microenterprises employ just one person, the owner-operator, or microentrepreneur. In some lower income countries, however, microenterprises employ a third or more of the labor. The Microenterprise Program is targeted at businesses run by employing the poor, and it helps them by increasing their income and their assets. It raises their skills and productivity, and it helps them form organizations.

It is interesting, the kinds of businesses around which these microenterprises can actually exist. They can sell, for example, one product. They can be a soda selling entity in a little booth with cups and sodas, and out of that they can raise and help to build their families. It only takes one particular product that they might be selling.

In so doing, let me say that we help to have an impact on the foreign aid we have to give. We help to have an impact on the growing economies of these countries. We also help to have an impact on their self-reliance and their feeling about themselves. The programs receiving USAID funding incorporate the following principles: The commitment of significant outreach of services, continued focus on women and the very poor, the very backbone of these nations. Many of these women are heads of households and also are the basic structure of the family. The microcredit does erase poverty. And for those who are aware of the hunger around the world, we recognize that that is one of the best solutions, is to provide the independence that is needed.

I want to compliment this program, as well, for what it provides to women, the access to credit. And as well as it gives them access to credit, it helps them educate women in nations like India, in nations like Southeast Asia, as well as those in Africa and other parts of the world.

It has been well documented that educated women have fewer children and more time between births and, therefore, fewer health problems and healthier children. I would certainly say that this is a right direction.

I thank my colleagues for their leadership, and I urge my colleagues as well to vote for H.R. 1129.

Mr. Speaker, I rise today in strong support of H.R. 1129, the Microcredit for Self-Reliance Act. H.R. 1129 grants express authority to the United States Agency for International Development [USAID] to provide grants and loans in support of microenterprise programs in developing countries. The legislation directs that approximately one-half of the grant assistance provided under the USAID's program be used by poverty lending programs to the very poor, particularly poor women, under which loans of \$300 or less are provided. I especially would like to thank Mr. Hall of Ohio for his authorship and leadership on this very important bill.

Microenterprises are very small, informally organized businesses, other than those that grow crops. Often microenterprises employ just one person, the owner-operator or "micro-entrepreneur." In some lower-income countries, however, microenterprises employ a third or more of the labor force.

Importantly, the Microenterprise program is targeted at businesses run by and employing the poor. The Microcredit programs seeks to help the poor increase their income and assets, raise their skills and productivity, and form organizations that facilitate their more effective participation in society. In so doing, programs receiving USAID funding incorporate the following principles: a commitment to significant outreach of services, a continued focus on women and the very poor, a striving for sustainability and financial self-sufficiency, an adherence to rigorous performance standards, a sharing of information on best practices, and a fostering of innovation in programs.

Microcredit is a poverty eradication program. It is a program that provides opportunity and independence to the poor and to impoverished women in particular. In fact, more than 90 percent of microcredit loans have gone to women. Providing women access to microcredit enables them to open their own businesses and in so doing helps to build independence in male-dominated cultures.

Access to microcredit helps to educate women. It raises their income and, thus, that of their families. It has been well-documented that educated women have fewer children, have more time between births, and, therefore, have fewer health problems and have healthier children.

I urge my colleagues to vote for H.R. 1129 and in so doing, signal their support for this important program that does so much to empower women and improve the quality of life for impoverished families around the world.

Mr. PAYNE. Mr. Speaker, I yield back the balance of my time.

Mr. GILMAN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. LATHAM). The question is on the motion offered by the gentleman from New York [Mr. GILMAN] that the House suspend the rules and pass the bill, H.R. 1129, as amended.

The question was taken.

Mr. GILMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

**EXPRESSING SENSE OF CONGRESS WITH RESPECT TO GERMAN GOVERNMENT'S DISCRIMINATION AGAINST MEMBERS OF MINORITY RELIGIOUS GROUPS**

Mr. GILMAN. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 22) expressing the sense of the Congress with respect to the discrimination by the German Government against members of minority religious groups, particularly the continued and increasing discrimination by the German Government against performers, entertainers, and other artists from the United States associated with Scientology, as amended.

The Clerk read as follows:

**H. CON. RES. 22**

Whereas since World War II, Germany has been a friend and ally of the United States;

Whereas German government discrimination against members of minority religious groups, particularly against United States citizens, has the potential to harm the relationship between Germany and the United States;

Whereas artists from the United States associated with certain religious minorities have been denied the opportunity to perform, have been the subjects of boycotts, and have been the victims of a widespread and well-documented pattern and practice of discrimination by German Federal, State, local, and party officials;

Whereas the 1993, 1994, 1995, and 1996 United States Department of State Country Reports on Human Rights in Germany all noted government discrimination against members of the Church of Scientology in Germany;

Whereas the German State of Baden-Wuerttemberg barred Chic Corea, the Grammy Award-winning American jazz pianist, from performing his music during the World Athletics Championship in 1993, and in 1996 the State of Bavaria declared its intention to bar Mr. Corea from all future performances at State sponsored events solely because he is a member of the Church of Scientology;

Whereas the Young Union of the Christian Democratic Union and the Social Democratic Party orchestrated boycotts of the movies "Phenomenon" and "Mission Impossible" solely because the lead actors, Americans John Travolta and Tom Cruise, are members of the Church of Scientology;

Whereas members of the Young Union of the Christian Democratic Union disrupted a 1993 performance by the American folk music group Golden Bough by storming the stage solely because the musicians are members of the Church of Scientology;

Whereas the Evangelical Christian Church of Cologne, led by an American clergyman, Dr. Terry Jones, had its tax-exempt status revoked by the German government with the reason being that the church benefits to society were of "no spiritual, cultural, or material value";

Whereas the German government is constitutionally obligated to remain neutral on

religious matters, yet has violated this neutrality by supporting and distributing information to the general public that gives the impression that "sect-experts", who are only critical of all but the major churches, are in a position to provide the public with fair, objective, and politically neutral information about minority religions;

Whereas the Jehovah's Witnesses' application for recognition as a corporation under public law, which would have put them on equal legal status with the Catholic and Protestant churches, was denied by the Federal Administrative Court because the church's doctrine of political neutrality was considered to be antidemocratic;

Whereas government officials and "sect-experts" are using the decision denying the Jehovah's Witnesses recognition as a corporation under public law as a justification for discriminatory acts against the Jehovah's Witnesses, despite the fact that a constitutional complaint is still pending before the German Constitutional Court;

Whereas adherents of the Muslim faith have reported that they are routinely subject to police violence and intimidation because of their ethnic and religious affiliation;

Whereas the 1994 and 1995 Reports to the Human Rights Commission of the United Nations on the application of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion and Belief by the Special Rapporteur for Religious Intolerance criticized Germany for restricting the religious liberty of certain minority religious groups;

Whereas Germany, as a signatory to the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the Helsinki Accords, is obliged to refrain from religious discrimination and to foster a climate of tolerance; and

Whereas Germany's policy of discrimination against minority religions violates German obligations under the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the Helsinki Accords: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring), That the Congress—*

(1) continues to hold Germany responsible for protecting the rights of United States citizens who are living, performing, doing business, or traveling in Germany, in a manner consistent with Germany's obligations under international agreements to which Germany is a signatory;

(2) deplors the actions and statements of Federal, State, local, and party officials in Germany which have fostered an atmosphere of intolerance toward certain minority religious groups;

(3) expresses concern that artists from the United States who are members of minority religious groups continue to experience German government discrimination;

(4) urges the German government to take the action necessary to protect the rights guaranteed to members of minority religious groups by international covenants to which Germany is a signatory; and

(5) calls upon the President of the United States—

(A) to assert the concern of the United States Government regarding German government discrimination against members of minority religious groups;

(B) to emphasize that the United States regards the human rights practices of the Government of Germany, particularly its treatment of American citizens who are living, performing, doing business, or traveling in

Germany, as a significant factor in the United States Government's relations with the Government of Germany; and

(C) to encourage other governments to appeal to the Government of Germany, and to cooperate with other governments and international organizations, including the United Nations and its agencies, in efforts to protect the rights of foreign citizens and members of minority religious groups in Germany.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. GILMAN] and the gentleman from New Jersey [Mr. PAYNE] each will control 20 minutes.

The Chair recognizes the gentleman from New York [Mr. GILMAN].

**PARLIAMENTARY INQUIRY**

Mr. BEREUTER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his inquiry.

Mr. BEREUTER. Mr. Speaker, I would like to inquire whether the gentleman from New Jersey [Mr. PAYNE] is in opposition to the resolution.

The SPEAKER pro tempore. Is the gentleman from New Jersey [Mr. PAYNE] in opposition to the resolution?

Mr. PAYNE. Mr. Speaker, I am in support of the resolution.

Mr. BEREUTER. Then, Mr. Speaker, I would claim the time in opposition to the resolution.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. GILMAN] and gentleman from Nebraska [Mr. BEREUTER] each will control 20 minutes.

The Chair recognizes the gentleman from New York [Mr. GILMAN].

**PARLIAMENTARY INQUIRY**

Mr. PAYNE. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. PAYNE. Mr. Speaker, my inquiry is if Mr. GILMAN would give half of his time for those who are in favor of the amendment.

Mr. GILMAN. Mr. Speaker, I will be pleased to yield appropriate time to the gentleman from New Jersey.

The SPEAKER pro tempore. Without objection, the gentleman from New Jersey [Mr. PAYNE] will control 10 minutes.

There was no objection.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

**GENERAL LEAVE**

Mr. GILMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on this measure and include extraneous materials.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. GILMAN. Mr. Speaker, while I do not take pleasure in bringing this resolution to the floor criticizing Germany,

we must be frank with our friends. And when repeated treaties have failed and the matter is serious enough, we must not hesitate in speaking frankly and on the record.

Mr. Speaker, the fact is that the German public officials have displayed an unfortunate record of speech and action against minority religions, action that, in my opinion, amounts to discrimination and violation of German obligations under international law.

This resolution calls attention of the public to those actions, calls upon Germany to change its behavior, and asks the President to take appropriate action. I will not belabor these issues and will provide a longer statement under leave to revise and extend my remarks.

Mr. Speaker, the gentleman from New Jersey [Mr. PAYNE] is sponsor to this resolution, as well as the gentleman from Arizona [Mr. SALMON] and the gentleman from Ohio [Mr. NEY], each of whom has taken a great interest in this legislation and are deserving of our commendation. The resolution has been considerably broadened and softened in the course of its consideration in the committee. And Members may refer to the amendment now at the desk, copies of which are available on the floor.

Mr. GILMAN. Mr. Speaker, I first became aware of the problem of religious minorities in Germany well over a year ago when I had the opportunity to visit with American citizens about the problems that their coreligionists had in Germany.

I have had the opportunity to discuss this on several occasions with German Government officials. I have raised this issue in the context of my profound respect for Germany as a friend of the United States. More than a friend, it has become an especially close ally and, in addition, a country that has done a great deal in recent years to protect and uphold human rights around the world. This matter may distress our German friends. But we must be frank with friends.

The German Government perceives Scientology and certain other religious minorities as dangerous or not valuable to their society and as not having the right to the same privileges as other religions. I am sympathetic with German concerns that its history requires that its society be vigilantly protected against totalitarianism. We are all too familiar with how small organizations can grow into important threats to human rights and world peace.

Let me be clear. I have criticized some of the tactics of the Church of Scientology in its public relations campaign against Germany. The use of Nazi imagery by the church or its supporters to characterize the present Government of Germany is improper and unacceptable. But we cannot allow our distaste for some of the tactics of Scientology's supporters to undermine our concern about individual rights if we believe they are violated.

The fact is that healthy democracies such as Germany have potent weapons against groups when they take actions that actually threaten their societies. Democracies need not and ought not to discriminate against people based on matters of conscience or affiliation.

I am particularly concerned when discrimination against individuals on religious ground is encouraged. While some public officials may have an honest belief in the truth of their accusations, the political process can encourage politicians to engage in scapegoating and playing to public prejudices for partisan gain. This can, as we know—as Germans above all know—end in tragedy.

In this connection, I am dismayed with regard to some of the remarks that have been reported to have been uttered by German officials responsible for the protection of the Constitution.

For example, in the course of an interview printed on October 13 of this year in *Die Welt*, ostensibly devoted to discussing anti-Western, extremist trends within Islam, Peter Frisch, head of the German Federal Office of the Protection of the Constitution, stated that "there are several tens of thousands of Muslims in Germany who are converts from Christianity. There is one Islamic center that has expressly issued instructions to marry German women. The women would then convert to Islam and their children should be brought up accordingly." This sort of irrelevant, hatemongering rhetoric is unbecoming of an official charged with safeguarding human rights. This is the same official, by the way, who is today investigating Scientology.

During the period leading up to the consideration of this resolution in committee, and thereafter, there have been accusations that the German Government has been denied the opportunity to make its case. I would note that it is not the normal practice of our committee to call foreign ambassadors as witnesses and there was no request from the German Ambassador to be heard. I moreover note that I have discussed Scientology with the German Ambassador; the sponsors of this resolution may wish to address the accusation by the German Ambassador that they are unwilling to meet with him. Such an accusation was denied on the record at our committee markup.

Further, I note that the German Ambassador was invited by Senator D'AMATO from New York to appear or send a representative of the German Government to a hearing of the Commission on Security and Cooperation in Europe, which he chairs. The German Ambassador declined because a German Government official could not in principle appear before the Commission. I will include in the RECORD a copy of Senator D'AMATO's letter dated November 6, to me on this issue, and the German Ambassador's letter to me on the resolution, dated September 16, 1997.

The Department of State has worked on the problems of Scientologists and other minority religions in Germany and has done a good job in fostering the American perspective. But this dialog has gone on for some time and has had few positive results.

We hope that adopting this resolution, which has been modified considerably since its introduction, would indicate to our German friends that there is widespread support for the position that the Department has been taking and would spur a reconsideration in Germany of the policies that the resolution addresses.

Mr. Speaker, I urge my colleagues to support the amended resolution.

THE AMBASSADOR OF THE  
FEDERAL REPUBLIC OF GERMANY,  
October 29, 1997.

Hon. BENJAMIN GILMAN,  
Chairman, Committee on International Relations,  
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I am writing you about H. Con. Res. 22 concerning alleged discrimination by the German Government against members of minority religious groups. The draft resolution I have seen contains allegations against the German federal and state governments which are entirely unfounded and absurd, and I emphatically reject them.

As you know, Germany is a free country in which religious freedom is guaranteed under the constitution and thus sacrosanct. Indeed, this fact was clearly confirmed in the latest United States Department of State Country Report on Human Rights. Furthermore, I would like to add that no artist from the United States associated with certain religious minorities has been denied the right to perform in Germany.

I have enclosed information about the Scientology organization and the Cologne Christian Community, which speaks for itself. If you review it carefully, you will find that the German authorities have not disturbed the practice of religious freedom. Rather, on the contrary, there are increasing indications that the Scientology organization uses totalitarian and thus unconstitutional means to oppress its members and their families.

Germany is a close and trusted U.S. ally. If the current draft resolution were to come before your committee and to the floor of the House of Representatives for a vote, such a move would be incomprehensible to my government, the German Parliament, and the German public. Moreover, it would be inconsistent with the excellent status of our bilateral relations and, indeed, could harm them.

I would be very grateful if you could take these concerns into account in deciding how to proceed. In the past months, I have attempted several times to arrange an appointment with the co-sponsors of an earlier draft of this resolution in order to explain the German position on the Scientology organization.

Regrettably, the Congressional members did not wish to meet with me on this matter. It therefore goes without saying that I would be happy to discuss this matter with you anytime.

I will send a copy of this letter to the House ranking minority member on the International Relations Committee, Congressman Lee Hamilton.

Sincerely,

JÜRGEN CHROBOG.

NONPAPER

It cannot be said that the *Christliche Gemeinde Köln*—the Cologne Christian Community—is being persecuted or discriminated against by public institutions. Freedom of belief is fully and unconditionally guaranteed in Germany. The members of the *Christliche Gemeinde Köln* also are free to practice their belief.

NONPROFIT STATUS

As in the United States, religious communities in Germany must supply specific proof that they are nonprofit organizations in order to become tax exempt. After a thorough review of the *Christliche Gemeinde Köln*, the German tax authorities have found that the conditions under which the sect was originally recognized as a nonprofit organization no longer exist. For this reason, the

*Christliche Gemeinde Köln* will be assessed from now on, as are other noncharitable organizations.

The *Christliche Gemeinde Köln* has appealed this decision. A judgment by the Tax Court is still pending in this appeal.

DISMISSALS OF MEMBERS OF THE CHRISTLICHE  
GEMEINDE KÖLN

The German Government does not yet have any relevant information concerning the legal background of the dismissals. It therefore cannot take a position on the discrimination charges at this time.

COMMISSION ON SECURITY  
AND COOPERATION IN EUROPE,

November 6, 1997.

Hon. BENJAMIN A. GILMAN,  
Chairman, Committee on International Relations,  
U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Following your Committee's mark-up of H. Con. Res. 22 concerning German discrimination against individuals holding minority religions or beliefs, I noted that the German Federal Minister for Foreign Affairs, Klaus Kinkel, has reportedly said that the German Ambassador to the United States, Jürgen Chrobog, has offered to explain the German position to Congress, but "... he has had no chance to do this." ("Kinkel Rejects American Critique: No Persecution of Religious Minorities in Germany," in the *Frankfurter Allgemeine Zeitung* (National), November 3, 1997.) This assertion is false.

I have attached for your information a copy of a letter of invitation sent to Ambassador Chrobog on August 25, 1997. The relevant portion of the letter reads as follows: "I write today to invite a representative of the Federal Republic of Germany to testify at a public hearing of the Commission to be held at 10:00 a.m. on Thursday, September 18, 1997, in room SDG-50 of the Dirksen Senate Office Building. The subject of the hearing will be 'Emerging Intolerance in the Federal Republic of Germany.' It will focus on official policies and actions directed at members of minority ethnic groups and minority religions and beliefs contrary to the Federal Republic's international obligations."

Commission staff engaged in repeated telephonic conversations with officials at the Embassy of the Federal Republic of Germany to ascertain whether the German government would provide a witness at the hearing. At no time did any German official indicate that a witness would be provided.

After reviewing the problem of religious intolerance, I decided to broaden the scope of the hearing and accordingly changed its title to "Religious Intolerance in Europe Today," so that the Commission could better address the Europe-wide nature of the problem. On September 9, 1997 my Chief of Staff sent Ambassador Chrobog's deputy, Mr. Thomas Matussek, a note explaining the change in scope and indicating that no official German witness was needed.

On September 16, 1997, Ambassador Chrobog wrote to the Commission saying that "... an official representative of Germany cannot, on principle, testify before the Commission." Since the Commission is an independent agency of the United States government, duly authorized by law, a clarification of the principle invoked by Ambassador Chrobog would be in order to determine if it would be possible for an official of the Federal Republic of Germany to speak on the record in public before any U.S. government body.

The Ambassador's letter enclosed a background paper outlining the German govern-

ment's official position on the subject. By telephone, the Embassy asked that this paper be made available to Commissioners. I agreed to do that and copies of the Ambassador's letter and attached information were placed on the dais at the hearing for the use of Commissioners.

In addition, the German Embassy requested that the paper enclosed with the Ambassador's letter be included in the hearing record. I have also agreed to do that. When the hearing record is published, it will contain all of the documents I have attached to this letter.

I provide you with this detailed record of the Commission's interactions with the Federal Republic of Germany's official representatives so that you may accurately respond to the allegation that official German views have not had the opportunity to be presented to the House or Senate on this subject. The opportunity was offered, and, unlike the ambassadors and official representatives of candidate NATO member states who appeared, testified, and responded to questions at Commission hearings on that subject during the spring of 1997, the German position was that they would not provide a witness. I have responded positively to their request that their written views be made available. In addition, staff level contacts have continued as the Commission seeks information.

Without attempting to discuss all of the problems in the official German position on this issue, I want to highlight the fact that Principle VII of the Final Act of the Conference on Security and Cooperation in Europe (the "Helsinki Accords," to which the Federal Republic of Germany is a party), provides, in pertinent part, that "... the participating States will recognize and respect the freedom of the individual to profess and practice, alone or in community with others, religion or belief acting in accordance with the dictates of his own conscience." The repeatedly asserted official German position that Scientology is not a "religion" does not meet Germany's international human rights obligations. Whether or not Scientology is a religion is irrelevant in this case, because "belief" is a broader term than "religion," and Germany's official policy toward Scientology ignores the fact that "belief" is a protected category under the Helsinki Accords. Note that Principle VII is phrased in the disjunctive, religion or belief, and that Germany's policy toward Scientology is, we believe, in violation of this critically important principle.

I appreciate this opportunity to assist you in dealing with this matter, and look forward to continuing to work with you on issues of mutual concern.

Sincerely,

ALFONSE D'AMATO, U.S.S.,  
Chairman.

COMMISSION ON SECURITY  
AND COOPERATION IN EUROPE,

August 25, 1997.

His Excellency JÜRGEN CHROBOG,  
Ambassador, Embassy of the Federal Republic of  
Germany, Washington, DC.

DEAR MR. AMBASSADOR: I write today to invite a representative of the Federal Republic of Germany to testify at a public hearing of the Commission to be held at 10:00 am on Thursday, September 18, 1997, in room SDG-50 of the Dirksen Senate Office Building. The subject of the hearing will be "Emerging Intolerance in the Federal Republic of Germany." It will focus on official policies and actions directed at members of minority eth-

nic groups and minority religions and beliefs contrary to the Federal Republic's international obligations.

The Commission is also inviting an official witness from the Executive Branch to present the official United States position on these matters as reflected in the Department of State's "Country Reports on Human Rights Practices for 1996," and other official statements.

While detailed plans for the hearing's organization are not yet final, I anticipate having three panels of witnesses; a first panel of official witnesses; a second panel of non-governmental organization and academic experts; and a third panel of publicly prominent Scientologists who have had experience with German policies on the Church of Scientology and its adherents. The third panel is occasioned in particular because of the Council of Ministers' decision to place the Church of Scientology "under observation" by the Federal Office for the Protection of the Constitution and coordinate state bodies.

I appreciate your kind attention to this request and express the hope that you or someone else who can speak with authority and credibility on Germany's approach to these problems can testify to present the Federal Republic's official position with the accuracy and clarity it deserves.

In order to help Members prepare for the hearing, the Commission requests that you provide 75 copies of your written testimony at least one day prior to the hearing. Oral presentations should be approximately 7-10 minutes in length. If your desire, you may provide additional written material for inclusion in the hearing record.

I look forward to working with you on this and other issues of common concern.

Sincerely,

ALFONSE D'AMATO, U.S.S.,  
Chairman.

THE AMBASSADOR OF THE  
FEDERAL REPUBLIC OF GERMANY,

September 16, 1997.

Senator ALFONSE D'AMATO,  
Chairman, Commission on Security and Co-  
operation in Europe, Washington, DC.

DEAR SENATOR D'AMATO: Thank you very much for your letter dated August 25, inviting a representative of the Federal Republic of Germany to testify at the public hearing "Emerging Intolerance in the Federal Republic of Germany," to be held by the Commission on Security and Cooperation in Europe on September 18. I am also aware that my deputy, Mr. Thomas Matussek, has received a letter, dated September 9, from Mr. Hathaway, Chief of Staff of the Commission on Security and Cooperation in Europe, explaining that the scope of the hearing has now been changed.

Please understand that an official representative of Germany cannot, on principle, testify before the Commission. As you may know, I have proposed on several occasions to meet individually with various Members of Congress to explain Germany's approach to the Scientology organization. While none of your colleagues expressed an interest in an exchange of views, I would be glad to renew my offer.

In the meantime, I enclose a background paper outlining the German position on the Scientology organization. The Commission staff has already been supplied with a copy.

Sincerely,

JÜRGEN CHROBOG.

SCIENTOLOGY AND GERMANY

Since October 1996 the Church of Scientology has waged an aggressive campaign

against Germany. Using full-page ads in the New York Times and the Washington Post, the Scientology organization has compared the treatment of Scientologists in present-day Germany with that of the Jews under the Nazi regime. This is not only a distortion of the facts, but also an insult to the victims of the Holocaust. Officials in Germany and the U.S. have repeatedly spoken out against this blatant misuse of the Holocaust. Ignatz Bubis, Germany's top Jewish leader, denounced the comparison as "false" and most recently, State Department spokesman Nicholas Burns at a press briefing on June 6, 1997 said:

"Germany needs to be protected, the German Government and the German leadership need to be protected from this wild charge made by the Church of Scientology in the U.S. that somehow the treatment of Scientology in Germany can or should be compared to the treatment of Jews who had to live, and who ultimately perished, under Nazi rule in the 1930s. This wildly inaccurate comparison is most unfair to Chancellor Kohl and to his government and to regional governments and city governments throughout Germany. It has been made consistently by supporters of Scientology here in the United States, and by Scientologists themselves. I do want to disassociate the U.S. Government from this campaign. We reject this campaign. It is most unfair to Germany and to Germans in general."

After having conducted thorough studies on the Scientology organization, the Federal Government has come to the conclusion that the organization's pseudo-scientific courses can seriously jeopardize individuals' mental and physical health and that it exploits its members. Expert testimony and credible reports have confirmed that membership can lead to psychological and physical dependency, to financial ruin and even to suicide.

In addition, there are indications that Scientology poses a threat to Germany's basic political principles.

Because of its experiences during the Nazi regime, Germany feels a special responsibility to monitor the development of any extreme group within its borders. German society is particularly alert towards radicalism of any kind and has set stiff standards for itself when dealing with aggressive, extreme groups—even when the groups are small in number.

Every citizen in Germany has the right to challenge the legality of government decisions which affect him or her, in an independent court. The Scientology organization has made ample use of its right to go to court in Germany and will continue to do so. Up until now, no court has found that the basic and human rights of Scientology members have been violated.

#### IS SCIENTOLOGY A THREAT?

According to a decision of March 22, 1995, by the Federal Labor Court, Scientology utilizes "inhuman and totalitarian practices." Often members are separated from their families and friends. The organization is structured so as to make the individual psychologically and financially dependent on a Scientology system. There are cases of the Scientology organization using this system of control and assertion of absolute authority to exercise undue influence in certain economic sectors—particularly in personnel and management training—causing serious harm to some individuals.

In response to the growing number of letters from concerned parents and family members, particularly from those with relatives in Scientology, the German Par-

liament (Bundestag) established an investigative commission which will present a report on the activities of "sects and psychocults" in the course of the year 1997.

In the United States, two legal cases involving Scientology support the German Federal Government's concerns about the organization. In the early 1980s, 11 top Scientologists were convicted in the United States for plotting to plant spies in federal agencies, break into government offices and bug at least one IRS meeting. Referring to Scientology's battle with the IRS for tax-exempt status, The New York Times in a front-page article published March 9, 1997 "found that the (tax) exemption followed a series of unusual internal IRS actions that came after an extraordinary campaign orchestrated by Scientology against the agency and people who work there. Among the findings . . . were these: Scientology's lawyers hired private investigators to dig into the private lives of IRS officials and to conduct surveillance operations to uncover potential vulnerabilities." In 1994, the U.S. Supreme Court upheld a California court's finding of substantial evidence that Scientology practices took place in a coercive environment and rejected Scientology's claims that the practices were protected under religious freedom guaranties.

In other countries, too, the Scientology organization is increasingly seen with great concern. In France, a government commission led by Prime Minister Juppé, and charged with monitoring the activities of sects, convened its first meeting in mid-November 1996. On November 22, 1996, in Lyon, several leading Scientologists were found guilty of involuntary manslaughter and fraud in a case where methods taught by Scientology were found to have driven a person to suicide.

In Italy during December 1996, an Italian court ordered jail terms for 29 Scientologists found guilty of "criminal association."

In Greece, a judge declared in January 1997 that an Athens Scientology group was illegal after ruling that the group had used false pretenses to obtain an operating license.

#### IS SCIENTOLOGY A BONA-FIDE RELIGION?

In its ads and writings, the Scientology organization claims it is internationally recognized as a religion, except in Germany. This is false.

Among the countries that do not consider Scientology a religion are Belgium, France, Germany, Great Britain, Ireland, Italy, Luxembourg, and Spain, as well as Israel and Mexico.

In the United States, the Scientology organization did in fact receive tax-exempt status as a religious congregation in 1993—after a decades-long, contentious battle with the IRS.

In Germany, it is possible for organizations undertaking non-profit activities to be exempt from taxation. Up until now, attempts by the Scientology organization to obtain such status have failed. Two of the highest German courts recently dealt with cases involving the Scientology organization. The Federal Labor Court (Bundesarbeitsgericht) in its above mentioned decision on March 22, 1995, also ruled, that the Scientology branch in Hamburg was not a religious congregation, but clearly a commercial enterprise. In its decision, the court quotes one of L. Ron Hubbard's instructions "make money, make more money—make other people produce so as to make money" and concludes that Scientology purports to be a "church" merely as a cover to pursue its economic interests.

The Federal Administrative Court (Bundesverwaltungsgericht) confirmed decisions by lower administrative courts that the Scientology organization has to register its economic activities as a business with the relevant authorities (decision of February 16, 1995).

Also in France, the Scientology organization is neither a religion nor a non-profit institution. The organization's Paris head office was closed in early 1996 for not paying back taxes.

In Great Britain, the Scientology organization has been rebuffed repeatedly by the Charity Commission which insisted as recently as 1995 that the organization could not be considered a religion under British law and could, therefore, not enjoy any tax-exempt status.

#### FEDERAL AND REGIONAL ACTION TAKEN AGAINST THE SCIENTOLOGISTS IN GERMANY

On June 6, 1997, Federal and State Ministers of the Interior agreed to place the Scientology organization under surveillance. The Ministers have established that several activities of the Scientology organization may operate contrary to democratic principles and therefore warrants a formal investigation by the Office for the Protection of the Constitution (Verfassungsschutz). The investigation will focus on the structure of the organization and not on individual members. Concrete details regarding the extent of the investigation are not available at this time, but more information will be disclosed following the investigation's first year. Referring to the investigation, Manfred Kanther, Federal Minister of the Interior, said on June 6, 1997: "The year's surveillance will establish whether the organization is simply an unpleasant group, a criminal organization or an association with anti-constitutional aims."

Some of the German states have taken steps to protect their citizens against Scientology:

As of November 1, 1996, all applicants for admission to Bavarian public service and Bavarian public service employees must indicate whether they belong to the Scientology organization. Membership in Scientology alone does not automatically exclude individuals from public service.

#### THE SCIENTOLOGY PUBLIC RELATIONS CAMPAIGN AGAINST GERMANY

The Scientology organization has financed several highly visible public relations campaigns directed against the Federal Republic of Germany in American publications. Among the papers that have carried full-page ads in the last couple of years are the New York Times, the Washington Post and the International Herald Tribune. In addition, the International Herald Tribune published a controversial open letter to German Chancellor Helmut Kohl.

The Scientology organization has also distributed pamphlets such as "The Rise of Hatred and Violence in Germany," reiterating its allegations.

The open letter to Chancellor Kohl, written by a Hollywood lawyer with famous Scientology clients, appeared in early 1997 in the International Herald Tribune. The letter repeated Scientology organization assertions against Germany and was signed by 34 American celebrities. "Disgraceful and irresponsible" is how Michel Friedman, a member of the Central Council of Jews in Germany, described the letter. He added: "It's totally off the mark. Today, we have a democracy and a state based on the rule of law."

Following the letter, the U.S. State Department again criticized the Scientologists'

public relations campaign, saying, "we have advised the Scientology community not to run those ads because the German government is a democratic government and it governs a free people. And it is simply outrageous to compare the current Germany leadership to the Nazi-era leadership. We've told the Scientologists this, and in this sense we share the outrage of many Germans to see their government compared to the Nazis."

ARE THE CASES IN THE ADS TRUE?

The Scientologists' repeated allegations that artists belonging to Scientology are being discriminated against in Germany are false. Freedom of artistic expression is guaranteed in Article 5(3) of the German Basic Law (Germany's Constitution), thus artists are free to perform or exhibit in Germany anywhere they please.

Jazz pianist Chick Corea performed in Germany as recently as March 24, 1996, during the 27th International Jazz Week held in Burghausen, an event which received approximately \$10,000 in funding from the Bavarian Ministry of Culture.

"Mission Impossible," starring Tom Cruise, was a hit in Germany, grossing \$23.6 million.

Likewise, the Scientologists' claim that a teacher who taught near the city of Hannover was fired for her beliefs is untrue. The woman was not fired, though she repeatedly violated school regulations by using the classroom to recruit students and their parents to Scientology. After multiple warnings, the woman was transferred from classroom to administrative duties to prevent further violations.

Contrary to allegations that Scientologists' children have been prevented from attending school, all children in Germany, including Scientologists', are legally required to attend school. If a Scientologist's child is not enrolled in a German school, it can only be that the parent has pulled the child out.

Mr. Speaker, I reserve the balance of my time.

Mr. BEREUTER. Mr. Speaker, I yield myself such time as I may consume and rise in strong opposition to the legislation.

Mr. Speaker, this legislation came to the House Committee on International Relations with very little notice. It was on the agenda one morning. We have no Europe and Middle East subcommittee, and this legislation is one more argument why we should have so that bad and defective legislation, which in my judgment this is, can be vetted by the subcommittee, reworked, or stopped at that point before it comes to the House floor.

I think this legislation, if the Members of the body were fully familiar with it, would be voted down. We are taking it up in the last hours of the Congress. I am very concerned about the kind of message that it will send.

What we do on this body does matter when it comes to statements on foreign policy. We may consider it to be a very lightly relevant issue at times. But I will tell my colleagues, across the oceans when other countries look at what we do, they take it very seriously. So we have to be very careful.

The Ambassador from Germany to the United States has weighed in with

about as strong a letter as I have seen, refuting some of the arguments that have been made by proponents of the legislation. He contends he did not have an opportunity to meet with the Members who were sponsoring it. That has been argued about in the committee, as I understand it.

But I think one important point would be this: This comes down, as I understand it, to a matter of taxation with respect to what we would say in English would be the Cologne Christian community, because they, in Germany, do not consider Scientology to be a religion. Therefore, they tax it. But Germany is not alone in that respect. So does Belgium, France, the United Kingdom, Ireland, Italy, Luxembourg, Spain, and Europe, plus Israel and Mexico. And those are just the countries that I know about.

So it seems to me to bring this legislation here aiming it at Germany, which was at first at least almost exclusively a Scientology-oriented legislation, now been broadened with an amendment to change it, I think is inappropriate. It is unbalanced. It is damaging to our relations with Germany. And there is no real cause for us to be considering this kind of legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. PAYNE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as a sponsor of this bill expressing disapproval of religious discrimination by the German Government, I want to thank my colleagues on both sides of the aisle who have joined in supporting a very basic, democratic right, freedom of religion.

This bipartisan resolution was approved by the full Committee on International Relations after performing artists associated with religious minorities were denied the opportunity to perform in Germany and were also kept out of the political process. As our resolution states, the German Government is constitutionally obligated to remain neutral on religious matters, but it has violated this neutrality.

The United States, as the leader of the free world and champion of democracy around the globe, has an obligation to take a stand whenever we see basic religious rights being restricted, whether their religious affiliation is Muslim, Christian, Jewish, or any other faith. Performing artists from the United States have been denied the right to perform in Germany based on their personal spiritual beliefs.

When our citizens visit and work abroad, they should be able to live in peace without the fear of religious intolerance or mistreatment by the host government. In turn, when individuals visit the United States or decide to live here, they have a right to be able to worship freely and join any organization or group they choose to. These are

good-faith gestures. Discrimination against a person because of his or her personal beliefs is always objectionable.

Congress should stand up and say that we strongly disprove of religious intolerance. Germany is a friend, has been a friend for some time, an ally of the United States, and we want that relationship to remain strong and mutually beneficial. That is why we are calling on the German Government to respect the fundamental rights of every citizen of a democracy, the right to enjoy religious freedom.

Mr. Speaker, I reserve the balance of my time.

Mr. BEREUTER. Mr. Speaker, I yield 1½ minutes to the gentleman from Virginia [Mr. PICKETT].

Mr. PICKETT. Mr. Speaker, I thank the gentleman from Nebraska [Mr. BEREUTER] for yielding me the time.

I rise in strong opposition to this resolution. This resolution was acted upon without a public hearing and without a committee report and should, at the very least, be further considered by the committee. The sweeping allegations in the resolution are based upon a handful of alleged events that in no way support the allegations. This is serious business.

Germany is one of our Nation's staunchest and most dependable allies. The only purpose this resolution will serve is to create ill will and less friendly relations with a steadfast friend. America needs the full and enthusiastic support of strong and dependable nations like Germany. If it is to be successful in carrying out its mandate of world leadership, we should not be petty and elevate every issue to embarrassing confrontation.

When folks on one side of the street start throwing rocks, it is not long before folks on the other side start throwing them back. This resolution is bad for our country. I urge Members to reject it.

Mr. GILMAN. Mr. Speaker, can you tell me how much time we have consumed?

The SPEAKER pro tempore. The gentleman from New York [Mr. GILMAN] has 8½ minutes remaining. The gentleman from Nebraska [Mr. BEREUTER] has 16½ minutes remaining. The gentleman from New Jersey [Mr. PAYNE] has 8 minutes remaining.

Mr. GILMAN. Mr. Speaker, I yield 3 minutes to the gentleman from Arizona [Mr. SALMON], a member of our committee.

Mr. SALMON. Mr. Speaker, this is a wonderful opportunity for us to reaffirm what we stand for here in this country, whether or not we stand for the ability of Americans, wherever they live, whether it be in this country, whether it be Germany, Italy, wherever, to worship according to the dictates of their own conscience.

I have heard my colleagues say that this was not given an adequate hearing. Let me tell them that I serve on

the committee dealing with security and cooperation in Eastern Europe. We had a full day of testimony and hearings regarding incident after incident of persecution in Germany of minority religions.

I have heard it also referred to as the Scientology bill. Let me tell my colleagues, Mr. Speaker, it is much broader than that. I had folks from the Jehovah's Witness religion, folks from other Christian religions, Muslims, come into my office and tell me some of the horrors that they have had to endure regarding religious persecution in Germany. It is much more than just a taxation issue.

□ 1745

When we talk about American citizens being blacklisted or blackballed and boycotted simply because of their religion, not allowed to go abroad and perform simply because of their religious persuasion, that is something that ought to give us great concern. Furthermore, I have heard some of my colleagues on this floor in a whisper, I do not think anybody wants to go forth publicly and say anything this ludicrous, but I have heard some Members say behind the scenes, "Wait a minute, this is Scientology, they aren't Christian, or they aren't one of the mainstream religions." I doubt anybody would say something that foolish in the light of day because frankly, Mr. Speaker, that is what this country began about, it was about religious freedom, religious tolerance. That is why a band of people came to this country initially, so that they could flee religious persecution. If we do not stand for the protection of that, regardless of whether or not it is a minority religion, then we stand for nothing. Let me also point out that virtually every religion, yes, even Christianity, which I am proud to be a believer in, started as a minority religion.

From that time on, people were persecuted for their beliefs. Whether they are killed, whether they are blackballed, whether they are thrown out of the country, whatever persecution exists, we have a responsibility in our Government to stand up and be counted. If we cannot do that, if we cannot speak harshly to our allies who are our friends, if we cannot be plain spoken and honest with them, how can we be plain spoken and honest with our enemies?

Last week we debated 8 bills decrying China for its violations on human rights. I have heard some say that, "Gosh, we didn't have any officials from Germany come and testify before our committee. Therefore, how can we give this serious credence?" I have served on the Committee on International Relations for 3 years and I do not recall a public official from any of the governments that we have done

resolutions on ever coming in and testifying before that committee.

Frankly, this is all a smoke screen. Let us stand up and be counted. Let us stand for what we profess to believe in, that is, religious tolerance.

Mr. BEREUTER. Mr. Speaker, just for clarification I would indicate that the Committee on International Relations did not have hearings on this. The Helsinki Commission organization in this body did, but not the Committee on International Relations.

Mr. Speaker, I yield 2½ minutes to the gentleman from California [Mr. CAMPBELL], a member of the committee.

Mr. CAMPBELL. Mr. Speaker, how quick we are to condemn and how quick we are to neglect the advice of scripture to be sure about what may be in our own eye before we go and criticize what we find in another's. But this is particularly difficult when the criticism is against a friend and when we have not given that friend the opportunity to be heard.

Let me be very explicit. We, the House of Representatives, the Committee on International Relations, has not given Germany the opportunity to be heard. There is an allegation that Senator D'AMATO might have invited German witnesses, they might have refused. I understand that is a give and take in that particular context. I understand that at one point Senator D'AMATO's chief of staff said that a German witness was not going to be needed after all. But the point about our committee and our House is that we are today condemning a friend, an ally of the United States and we have not had the common courtesy to ask Germany to send a representative to our committee to answer the charges. That is no way to treat a friend and ally.

These are very strong charges. Let me quote from the resolution. We believe that Germany has "fostered an atmosphere of intolerance toward certain minority religious groups."

Given the history of Germany, these are very painful words. These are words that we should not be saying lightly. Yet we do without having heard from our friends. We claim that the German Government has engaged in discrimination and we use the word several times in the resolution.

First of all, the pain and the process are emphasized in my remarks, the pain that we inflict on a friend and the imprecision of the process. But note as well that this really does not deal with the high concerns that the sponsors wish to suggest. It seems to concern itself at least as much with tax-exempt status in Germany, as to which we would not welcome German interference in our country.

I conclude by saying this: To the German Government and to our friends around the world who watch what we

do today, please understand this is not the overwhelming majority. Understand what we do today in the final minutes of a session coming to a conclusion is not the thoughtful expression of a majority of this House, in my view. It was a voice vote in the committee. It will probably be a voice vote again. Please note that we are not addressing you in the terms that this resolution appears to say, that we are better friends than that.

Mr. PAYNE. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. BECERRA].

Mr. BECERRA. Mr. Speaker, I thank the gentleman from New Jersey for yielding me this time.

Mr. Speaker, House Concurrent Resolution 22 is about preserving religious freedom, plain and simple. I learned the depth of this problem when I was introduced to the hardships faced by scientologists in Germany. Early in my congressional career about 5 years ago, I met with Chick Corea the renowned jazz pianist and learned that he had been barred from public performances in Germany. He was set to go, he had performances all lined up. All of a sudden he was not granted a visa to go into Germany even though most of his performances had already been for the most part sold out. At the time I was able to work with a number of my colleagues and we put letters together and sent them off to the German government protesting such actions.

Back in 1941, President Franklin D. Roosevelt said in the future days which we seek to make secure, we look forward to a world founded upon 4 essential human freedoms. Those freedoms he listed were freedom of speech, of expression, of being free from want, and freedom from fear. He also told us of the freedom of every person to worship God in his own way everywhere in the world. I mention that because just yesterday, if Members read the New York Times, there was an article that said a Federal immigration court judge in Tampa, Florida, granted asylum to a German citizen who was a member of the Church of Scientology. Her asylum claim was based on the fact that she would be subjected to religious persecution had she returned to Germany.

Many of my constituents, as I suspect many of your constituents, are members of religious minority groups like the Church of Scientology. This resolution calls for protecting their rights if and when they spend time in Germany. They deserve this protection. German citizens themselves who are members of minority religious groups deserve religious freedom as well.

As Members cast their vote on House Concurrent Resolution 22, remember the words of President Roosevelt listing religious freedom as one of the four essential human freedoms. As he said, freedom of every person to worship God

in his own way everywhere in the world. Today is one of those future days that President Roosevelt spoke of. Today we should be standing together to say aye to House Concurrent Resolution 22.

Mr. BEREUTER. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. HOUGHTON], a member of the committee.

Mr. HOUGHTON. Mr. Speaker, I feel very uncomfortable supporting this measure. I do not know whether the actions of the German Government in relationship to the Church of Scientology are right or wrong. I have a sense, and this is probably presumptuous for me to say, had I been given the decision to make, I might have made it a little differently. But that is not the issue. The issue is whether we do not look just a bit pompous sitting back here with all our many moral problems in this country, to pass judgment on a nation, our friend, which is wrestling with something which we ourselves and other nations of this world are wrestling with. This is not a Martin Niemoller issue. Please let us withhold judgment. I would not support this measure.

Mr. GILMAN. Mr. Speaker, I yield 1 minute to the gentleman from Illinois [Mr. WELLER].

Mr. WELLER. Mr. Speaker, I rise in support of this resolution, as amended, and ask for bipartisan support. This issue is something pretty basic for all Americans, about basic American principles and values of freedom and religion. I think we all wonder sometimes and think back to why the Founding Fathers and Mothers came to our Nation. One of the reasons was and is because we practice tolerance and freedom of religion, and they came here, our ancestors, to avoid religious persecution. It is a pretty basic value for all of us. Germany is our ally. It is a first world country. It should be leading the way in religious tolerance. But unfortunately, American citizens today are being denied the ability to do business in Germany because of their religious faith. Whether Members agree with the values and the teachings of Islam, or Jehovah's Witnesses, or Charismatic Christians or the Church of Scientology, these individuals are being persecuted today. That is why this resolution is important. The President should be discussing this issue because he should be speaking in behalf of Americans who are suffering persecution. Congress must speak. I ask for bipartisan support. I urge a "yes" vote.

Mr. BEREUTER. Mr. Speaker, I yield 2 minutes to the gentleman from West Virginia [Mr. WISE].

Mr. WISE. Mr. Speaker, I rise in strong opposition to this resolution. If there is discrimination then it should be pointed out, but it should be pointed out in all the places it might occur. But here efforts are being made to single out Germany. I rise in opposition

because there are differing views about some of the specific allegations. One of the performers that has been mentioned here has played in Germany as recently as last year at a function that received funding from the State of Bavaria. The movies that have supposedly been boycotted indeed have been shown and have been hits in Germany, financial successes.

I rise in opposition because if we are talking about the Church of Scientology. Our own country did not grant tax-exempt status to that church until 1993. Indeed, there is a long list of nations, Belgium, France, Germany, Great Britain, Ireland, Israel, Italy, Luxembourg, Mexico, Spain that presently decline to grant that same status.

I rise in opposition because France, Italy, and Greece recently have taken actions which could be considered as discrimination in the sense they had made rulings against this Church of Scientology, and yet this resolution does not mention them.

Finally, because in a statement by Michael Friedman of the Central Council of Jews in Germany, responding to many of the charges made, he writes, "They are totally off the mark. Today we have a democracy in Germany and a state based on rule of law."

The sponsors have heightened awareness about alleged discrimination in many places, but let us not single out an ally with relatively unsubstantiated charges. Instead, let us engage and talk to each other as the true friends we are. There are American men and women in Bosnia today side by side with German men and women holding up an important part of our European responsibilities. Germany works with us in so many different ways. Let us recognize that and vote this resolution down, at the same time urging that discrimination everywhere be pointed out and that we deal with it together.

Mr. PAYNE. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in strong support for religious freedom and ask my colleagues to support House Concurrent Resolution 22.

Mr. Speaker, I rise in support of House Concurrent Resolution 22, which declares that the Congress holds Germany responsible for protecting the rights of United States citizens who are living, doing business, or traveling in Germany and deplores the actions of certain government officials in Germany which have fostered an atmosphere of intolerance toward certain minority religious groups.

This country was founded on the principles of freedom of religion, and in over 200 years of history we have not only survived but thrived.

This resolutions calls for the President to assert the concern of the United States Government against such discrimination; to em-

phasize that the United States regards the human rights practices of the German Government as a significant factor in the relationship between the two countries; and to encourage other governments to appeal to the Government of Germany in efforts to protect the rights of foreign citizens and members of minority religious groups in Germany.

Germany is a signatory to the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the Helsinki accords, and is therefore obliged to refrain from religious discrimination and to foster a climate of tolerance.

It is important for the Congress to make its views known with regards to human rights by our adversaries, but especially by our allies. Religious freedom should be a basic right of all people regardless of their faith or nationality.

I would hope that the people of Germany will take note of the peaceful diverse religious community that exists here in this country and would refrain from discouraging religious diversity in their own nation.

I urge my colleagues to join me in support of this resolution.

Thank you.

Mr. PAYNE. Mr. Speaker, I yield 1 minute to the gentleman from Arizona [Mr. PASTOR].

Mr. PASTOR. Mr. Speaker, when I first came to this Congress in October of 1991, I was approached about trying to do something with this issue. I have to tell Members since then to today, things have gotten worse for the people not only who are in Germany but also for the Americans that travel to Germany.

Mr. Speaker, the issue is, if you are for human rights, you should be for this resolution. If you are against religious persecution, you should be for this resolution. If you are against the persecution of Christians in China, you should be for this resolution. Mr. Speaker, there is concern for many of us in this country and we are supporting this resolution in a bilingual nature, because we want to show our concern that we do not want history to repeat itself in Germany.

Mr. PAYNE. Mr. Speaker, I yield the balance of my time to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. I thank the gentleman for yielding me the time.

Mr. Speaker, how much time do we have remaining?

The SPEAKER pro tempore (Mr. LATHAM). The gentleman from New York [Mr. GILMAN] has 9 minutes remaining and the gentleman from Nebraska [Mr. BEREUTER] has 11 minutes remaining.

Mr. BEREUTER. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia [Mr. WOLF].

Mr. WOLF. Mr. Speaker, I am troubled and puzzled and disappointed that the House tonight has decided to take up this resolution with regard to the Church of Scientology in Germany when the House has decided not to

bring up the Freedom from Religious Persecution Act, a bill that I sponsored along with 96 other Members of the House. While we are debating this resolution tonight, millions of Christians in Tibet, Buddhists in Tibet, Buddhists, Ahmadis in other countries, the Baha'is in Iran, Muslims in China and people of other faith are being brutalized, killed, raped, tortured and maimed because of their beliefs, and yet the House does not deal with this issue and they deal with this issue with regard to this resolution.

□ 1800

There is real life slavery. In Sudan tonight they are going into slave markets and taking people out, and the House does not deal with that issue, but yet it deals with this issue.

In Egypt Coptic Christians are being persecuted today as we now speak. The House does not deal with that issue, but it deals with this issue.

In closing, I am troubled and puzzled and very disappointed. If we are going to take up this resolution tonight, we basically are saying these other issues should be taken care of, and they are not being taken care of.

Mr. Speaker, I am troubled and disappointed that the House of Representatives has decided to take up the resolution on the Scientologists in Germany when the House has decided not to bring up the Freedom from Religious Persecution Act, a bill I sponsored with Senator ARLEN SPECTER.

The Freedom from Religious Persecution Act has over 96 bipartisan cosponsors and deals with persecution against people of all faiths in all countries around the world.

While we are debating this resolution today, millions of Christians, Tibetan Buddhists, Ahmadis, Baha'is, Muslims and other people of faith are being brutalized—killed, raped, tortured, and maimed—because of their religious belief and practice. Why won't the House speak out for them in this first session of the 105th Congress.

In China, Catholic bishops and priests are in jail and being tortured. Protestant pastors and laypeople are in jail and being tortured. Tibetan Buddhist monks and nuns are in jail and being tortured and killed. In Xinjiang Province in Northwest China, Muslim Uighurs are being persecuted.

In Sudan, 1.2 million people from the South, who are predominately Christians and animists, have died in the decade-old conflict. There is crucifixion taking place in the Nuba Mountains. Christian women and children are kidnapped and sold into slavery.

I have submitted for the record excerpts from a recent trip report of Christian Solidarity International, an international humanitarian organization with vast experience in Sudan. On their recent trip, CSI representative talked to dozens of women and children and heard of their ordeal. They talked with slave traders and visited slave markets.

One woman, a 20-year old mother, told of her ordeal when she was enslaved in May, 1997. She told CSI

I was sitting in my compound early in the morning when armed men on horseback sur-

rounded my home. They came without warning. I did not try to run away because there was no escape. One of the raiders lashed me and took me away with my child. As we left, I could see the raiders looting everything I owned, and setting my home on fire. I was taken to another village for some hours and was then forced to carry sorghum on my head. When I could walk no further, my captor, took my child and tied her on a horse. [My captor] often insulted me, calling me "slave" and he would beat me with a stick. He accused me of being lazy and refusing to obey orders. He used me as a concubine.

Real life slavery of Christians in Sudan. 1.2 million people have died. But the House of Representatives will not speak out for them today.

In Egypt, Coptic Christians are killed, forced to pay "protection money" to local thugs, harassed and sometimes imprisoned.

In Pakistan, Christian villages have been burned, devastating the lives of tens of thousands. Ahmadi Muslims are being persecuted.

In Vietnam, Christians and Buddhists are being persecuted.

And there are many other examples around the world. Why will this Congress not take up the Freedom from Religious Persecution Act—a bill that would cut off foreign aid to governments that kill, rape, torture, enslave or engage in other gross acts of violence against religious believers. We should speak out for these religious believers today.

There was a promise by the speaker to 40 religious leaders in August that the bill would be a "must do" item. He said "this is one of the top priorities of this Republican Congress."

Why take up this resolution to help Scientologists in Germany, but not bring up a bill that would help millions of people of faith in dozens of other countries around the world?

The Freedom from Religious Persecution Act is supported by the groups representing the vast majority of America's religious believers. It is supported by the Southern Baptist Convention, the National Association of Evangelicals, the Union of American Hebrew Congregations, the U.S. Catholic Bishop's Conference and the International Campaign for Tibet among others.

It is also supported by the American Coptic Association, the Assyrian National Congress, the Catholic Alliance, Christian Coalition, Evangelicals for Social Action, Family Research Council, Iranian Christians International, National Jewish Coalition, Union of American Hebrew Congregations, Pakistani-American Christian Association, World Lebanese Organization, World Maronite Union-USA, and the South Sudan Community of the U.S.

In May, over 90 religious leaders wrote to House leadership endorsing the measure and I submit that letter in the record. I also submit recent letters from the U.S. Catholic Bishops Conference and Rabbi David Saperstein, Director of the Religious Action Center for Reform Judaism in support of the bill.

When he met with the religious leaders in August, Speaker Gingrich said "As Speaker of the House, I will continue to use my bully pulpit to speak out for those who are unable to speak for themselves." Mr. Speaker, please use that bully pulpit and your extraordinary power as Speaker of the House to bring up

the Freedom from Religious Persecution Act early in the next session.

It's puzzling and it's disappointing that this resolution is being brought up but the Freedom from Religious Persecution Act is not.

DRAFT PRELIMINARY REPORT: VISIT TO NORTH-EASTERN BAHR EL GHAZAL, SUDAN

OCTOBER 8-12, 1997

Slavery in Sudan

The primary objective of this visit was to develop CSI's work to combat contemporary slavery in Sudan.

CSI had received various unconfirmed reports of the practice of slavery on early visits to Sudan. But it was not until we visited Nyamlell in Aweil West County briefly in May 1995 that we discovered slavery as a flourishing and widespread institution. We learnt that on March 25 1995 the Popular Defense Forces (PDF) of Sudan's ruling National Islamic Front (NIF) regime attacked Nyamlell, killing 82 civilians, enslaving 282 women and children; burning dwellings and looting cattle and grain.

Since then, CSI has returned 8 times to this area and has visited other locations in northern Bahr El Ghazal, such as Malwal Akon in Aweil East County and Turalei in Gogrial County, to obtain further data on slavery. During these fact-finding missions, we have interviewed slaves, slave traders, PDF officers and the families of people who are still enslaved. We have accumulated an abundance of evidence to prove beyond doubt that chattel slavery thrives in these parts of Sudan and that the NIF regime actively encourages it. See reports of CSI visits to Sudan: May-June 1995; August 1995; October 1995; April-May 1996; June 1996, October-November 1996, March 1997 and June 1997. The evidence obtained during this visit amplifies our previous findings about the pattern of the slave trade.

Interviews with some of the newly redeemed slaves give an indication of their experiences during enslavement.

(1) Ayen Deng Ding from Akek Rot near Marial Bai. Her village was attacked 4 years ago. When the raiders came, she was in her home with her 10-year old daughter Ajok Garang. She saw the horses coming and started to run but she and her little girl were caught by a horseman. She was beaten (she showed us scars on her arms), tied with a rope and taken North to Abu Matarik, where she was handed over to another man. She was separated from her daughter, but they were nearby. When the trader came to negotiate her release, she told him about her daughter and he managed to secure her release also.

During her 4 years of slavery, she was treated very badly: subjected to beatings while caring for the cattle; she also had to cook, fetch water, carry firewood, wash clothes and work in the garden. She was not given enough food—only leftovers—and was constantly hungry.

She saw other slaves being beaten, 4 of whom died—3 men and 1 woman. She was raped repeatedly on the forced march north, but her owner only raped her once.

I lost hope I would ever see my home again, but I just prayed to God. I was so happy when I saw the trader coming, I began to dare to hope. But many other slaves are still left behind.

She now has only her daughter left; her husband was killed in the raid. She has gone to live with relatives, but she also lives with the fear that the raiders will come again. She asked us to convey this message:

We are so happy now we are feeling free. Thank you for what you have done for us.

The problem remains and there are still people left behind as slaves, but we are comforted because when we saw you we felt you care for us very much. When we arrived here, we were so relieved and happy we could meet in a secure environment, to engage in politically legitimate activities which are banned by the NIF in the North.

Expectations had been raised during previous visits of Umma Party representatives and disappointment was expressed over the delay in fulfilling them.

Several more Arabs expressed similar sentiments, which can be summarized in the words of two of their spokesmen:

We are the supporters of the Umma Party. We are Ansars, not NIF. We are rivals of the NIF, but the leaders of the Umma Party have been unseen and unheard for a long time. This has enabled the NIF to recruit our people.

**NIF Recruitment Policies:** Another spokesman claimed that the training and arming of Arab citizens by the NIF over 4 or 5 years has been very intensive. But after receiving the messages from the Umma Party leadership, this has slowed down, although there are still bad elements in society who are tempted by greed still to participate in the raids. Because of their difficulty in recruiting raiders, the NIF are now recruiting school children from about 15 years of age to fight in the PDF. So-called "co-ordinators" from the regular Army are used to round up children from schools. There are many children now at the military headquarters at Daien. Airplanes come to take the children away and they are never seen again. All tribes in Darfur are affected. It is Omer El Bashir who gives orders for the rounding up of children. The ones who actually do it are the Security forces and the police, but they are just obeying orders.

**Living Conditions in Darfur:** These are very, very bad in Nyala, Daien and other towns. We have no choice but to migrate. Nomads and everyone else are badly affected. A 20-litre barrel of fresh drinking water is £3,000 (Sudanese pounds), a portion of bread is £250 (SP), 2cc of penicillin cost £4,000 (SP), while the maximum pay a labourer or clerk is £20-25,000 (SP) per month. A consultation with a doctor, just for diagnoses, not for treatment costs £20,000 (SP).

Here is proof that life in Darfur is unbearable: I am an old man and I had to walk through water for 7 days carrying heavy loads to trade with the Dinka—this shows just how bad conditions are in Darfur.

The meeting concluded with a final message from Ali Mahmoud Dudain: Recruitment to the PDF has diminished, because of CSI's work to promote peace and reconciliation. The NIF can still recruit, but not like before.

We camped overnight at Manyiel.

FRIDAY, OCTOBER 10

We walked on from Manyiel to Majak Bai, the village we visited in June, shortly after it had suffered from a major raid (CSI field trip report of June 1997). During that raid, the school was burnt to the ground. On this occasion we met the headteacher again, Aguek Manjok. He described the situation: there had been 300 children in the school but some disappeared as a result of the raid. During the attack, everything was burnt: the building, all the books and every piece of equipment: there was absolutely nothing left.

They now urgently need teaching resources for their curriculum of English, Maths, Geography, History, Science, Hygiene and Religious Education, with text books to cover

levels P1-8. At present, he said, we can only teach what is in our minds and that is not enough.

There is also a need for help to send people for teacher training. There is a centre for Aweil West County in Majong Akon.

NB. The need for professional education/ updating was repeated many times. One specific request, which we would support, was made by Simon Kuot, the nurse/medical co-ordinator based at Nyamlell. We have seen him at work and been very impressed by the standard of professional competence he displays (e.g. treating the serious casualties from the raids). His area of responsibility is very large and makes many professional demands. We hope it will be possible for to dance. Although we were beaten and humiliated and though there are still problems here, like shortages of medicines, these are not real problems—we can cope with those. We are so happy to be back.

(i) Abuk Atak from Panlang near Marial Bai. 3 years ago her village was attacked and she was beaten by an Arab with a gun during the raid. She had her 18-month old daughter with her, but lost her in the raid and has never seen her again. After being taken North, she was sold to Anur Mohammed in Abu Matarik in Southern Darfur. She was raped every day, sometimes many times, by different people; if she did not submit voluntarily, she was beaten. Clearly embarrassed by talking about her ordeals, fidgeting anxiously with dead leaves, she said she had been subjected to circumcision. But she would talk about it because "I can't deny the facts. We were subjected to torture and suffering and I can't deny our humiliation."

She never thought she would be able to come home again and during those 3 years she lost all hope. But now she is home, she said: We were left with nothing after the raids; we lost our homes, our crops were burnt, our cattle stolen, we have not even any clothes . . . but there is no problem which we cannot endure.

(ii) Acol Bak, aged 12 from Panlang, who assured us at the outset that she was not afraid to talk about her experiences. 4 years ago she was at home in the early morning; Arabs suddenly appeared and she was surrounded by horses. Her mother managed to escape but she and her elder brother were caught and taken to Gross near Abu Matarik. She doesn't know what happened to her brother. On the walk North she was forced to carry looted property on her head; they were given no water and could only drink from muddy puddles; neither were they given any food during the 3-day forced march. She was beaten and her right arm was broken. She was forced to do housework from morning until night and beaten by all the family if she ever complained of tiredness. She had to sleep outside with no bedding, just trying to keep warm by a fire. One month after her arrival in her owner's home, an old woman came to circumcise her. She was told that unless she was circumcised she would not be a human being; she would be just "like a dog". She knew other girls who had also been circumcised.

She said she was very, very happy to be home again and for the people who brought her back. She is living only with her mother as her father had been killed in the raid and her brother has not been found.

(iv) Acol Anei Bak from Panlang was caught by surprise when the enemy attacked her village 4 years ago, when she was about 8 years old. Her brother, aged about 12, was caught at the same time and she does not know what happened to him. She was taken

to Pielel, near Nyala, where she was sold to a man called Amsal Abrahaman. She was forced to help to care for the 5 children in the family, especially with washing them, and to look after cattle and horses. The children were very unfriendly and would not speak to her. She was circumcised, and told that this was being done to her because the owner wanted her to be an Arab.

(v) Ayen Ding Yel from Akek Rot near Marial Bai was captured in May this year. She showed us her foot which was injured when a horse trod on it during the raid; she was also shot and showed us the scar caused by the bullet which injured her left knee. She was initially left behind, after she was injured, but then another Arab put her on his horse and took her to Abu Matarik. She was badly treated and beaten whenever she asked for food. Her owner asked her why she needed food—saying she did not deserve food. She said she never dreamt that she would be free again and that her mother was overjoyed to see her yesterday.

(vi) Nyibol Yel Akuel is a 20-year old mother. Three of her children have starved to death. Her only surviving child is a one-year-old daughter, Abuk. The mother and daughter were enslaved during the PDF raid on Majak Bai on May 16, 1997. Nyibol explained what had happened to them: I was sitting in my compound early in the morning when armed men on horseback surrounded my home. They came without any warning. I did not try to run away because there was no escape. One of the raiders lashed me and took me away with my child. As we left, I could see the raiders looting everything I owned, and setting my home on fire. I was taken to another village for some hours and then was forced to carry sorghum on my head. When I got tired and could not walk further, my captor, Mahmoud Abaker, took my child and tied her on a horse. I walked for seven days to Abu Matarik. There, I had to work from 6:00 a.m. to 6:00 p.m. My jobs were to carry water from the pump, clean the compound and wash clothing. Mahoud Abaker often insulted me, calling me "slave" and he would beat me with a stick. He accused me of being lazy and refusing to obey orders. He also used me as a concubine. Mahmoud Abaker told me that I should practice Muslim prayers. I had trouble praying in Arabic, so they gave me some training. Abuk was renamed Miriam. I was not allowed to go far from the compound. Mahmoud Abaker may have had other slaves at his cattle camp, but I never saw them. He had no other slaves in the compound. One day, I was told to leave the compound with a trader. I was afraid to go. They told me I would go back to southern Sudan. I didn't believe them, but went anyway. I was very happy to see you and to find that you spoke nicely to us and are not going to do something terrible to us. My husband is now away trying to find food. When he comes back we will find a new place to live.

(vii) 11-year-old War Weng is also from Majak Bai. He was enslaved in 1994 when he was fishing with his father. A group of raiders came and snatched him, while his father managed to run away. He recalled his life as both the chattel slave of a master and a inmate in a radical Islamic youth indoctrination centre: I was taken to Daien by Musa Osman. My jobs there were to clear cattle dung and take the calves to the river. I received only left-overs to eat and sour milk to drink. After a year or so, I was taken from Musa Osman to a big camp in the town where you can see the light even at night. There were big lights over the compound. There were a lot of boys in this compound.

All of them were Dinka boys. We all were given uniforms. This compound was run by the Salsabil organisation. (War Weng was wearing a uniform with the Salsabil logo). Every morning we would wake up early and gather in one place to pray. Then we were taught the Koran for the rest of the morning. At about mid-day we were given food and allowed to rest. From 3:00 until the evening there was more learning. The most important teacher there was Abdel Rahman. None of us were allowed to speak Dinka. We had to speak Arabic all the time. I was beaten for speaking Dinka with my friends. One day, one of the teachers told me and three others to go to the river with a man and his horses. I thought he was going to take us to a new master. Instead he brought us back home. I did not like the camp. It is very good to be back here. Now I am not beaten. I expect to go back to my father. He has already visited me one and given me some food.

(viii) Atoc Diing is about 11 or 12 years old. She was enslaved during the raid on Majak Bai last May. She recounted:

We heard gunfire early in the morning. My Mother said run quickly. We ran towards the river. When we got there, we found Arabs all around us. We couldn't run anymore. My Mother stopped and started to cry. One of the raiders came towards us and beat my mother. She fell down. I was taken away and put on horseback. I was taken from place to place before we reached Abu Matarik. There, my captor, Ali Abdullah sold me to another. After four days, I was sold again to another man. His name was Mohammed. He took me to his home in the small village of Gumbilai, near Abu Matarik. I had to fetch water and firewood, and clean. They gave me milk to drink everyday, but some days they gave me no food at all. The young sons of Mohammed were very rough with me. They would beat me, and they tried to have sex with me. But they did not succeed. Mohammed has many slaves. Most of them were in the cattle camp. He has three female slaves at his house. Now that I am back, I will go to live with my sister. My father is dead, and my mother went North to look for me and has not yet returned.

Interview with casualty of the PDF's May 1997 raid on Majak Bai, the 26-year-old mother, Adel Lake. She was evacuated by CSI to the ICRC hospital in Lokichokio in Kenya last June. The ICRC was not able to evacuate her because the NIF regime has suspended its operations inside Sudan since November 1996. This has meant that thousands of casualties have died slowly, painfully and needlessly from easily treatable wounds. Adel Lake returned to Bahr El Ghazal with her health restored while we were there. She told us:

When the enemy came we were in our tukul. We heard gunshots. I picked up my twin one-month-old babies and ran away to hide. I could not also carry my three-year-old son, Wek Wol, and he was left behind. I hid in the bushes together with my sister-in-law and some other people. The Arab soldiers spotted us and started firing their guns. Everything was in a mess and confused. I was shot in the leg and lost consciousness. When I regained consciousness, I could not walk. The bullet had badly fractured my thigh. I was horrified to find that my tukul had been burnt down, and that my son, who had remained inside, had been burnt alive. I also discovered that my sister-in-law had been shot dead. I was weak and sick for many weeks after being shot. I was in a lot of pain and could not look after my babies by myself. I did not believe that help would come.

I thought I would never get better. When you came and found me in my bed I felt very happy and believed that you would do something to help me. At the hospital, they made my leg better. The wound and fracture is healed, but I still feel some pain. Please give my greetings to all of those who helped me.

SATURDAY, OCTOBER 11, DEPARTED NYAMLELL AND ARRIVED IN MALWAL AKON; INTERVIEWS WITH EX-SLAVES

(i) Mablor Agui Deng From Kurwech, near Warawar, aged about 12, was taken when he was much younger and sold to an owner called Mohammed. He was forced to work as a cattle herder; given very little food; had to sleep under a plastic sheet at night. The worst thing about being a slave was being taken away from his family and not seeing them for such a long time. He was saved by a trader and returned to his home in September.

(ii) Mahid Kuot Mou from the village of Kurwech. When the PDF came with their horses, he tried to hide but was caught and bound and forced to go 'footing' for many days, during which they were given very little food and water. He was sold to another owner whose name was Abdullah. He was forced to look after cattle, and lashed if he made any mistakes. He had to sleep under a plastic sheet at night and given only sorghum to eat. He was beaten with bamboo sticks which was very painful. He was given the name of Mohammed. He also had to collect the water. When he went out to collect the water, the local boys were very cruel to him. They used to force him to crawl and rode on his back, calling him a horse. When he was returned by the trader, some relatives recognized him and took him home. They were very, very happy to see him and celebrated his return by killing a chicken.

(iii) Yak Mawien Yak from the village of Rum Marial. When he heard the enemy coming, he ran away to hid with his father but his father was killed. Looking down at the ground, he spoke reluctantly about this:

The enemy slaughtered my father with knives. They took me to the horses after beating me. During the beating they asked me where other people were and I said there was only my father around. We spent two days walking to the Arab area and the owner of the horses kept me and made me work for him.

The raider who killed his father and took him with him said: I am now you father and now you are my enemy; so if you do not take my advice and come with me I will kill you; otherwise you can become my son.

He slept in the same shelters as the goats and sheep, he was only given uncooked sorghum to eat; one day another local boy attacked him with a knife and wounded him (he showed us his scar); a small girl came to help him. If his owner shouted for him and he did not hear him, the owner would beat him with a stick, calling him stupid. He was forced to walk long distances to collect water and to pound grain. He was given the name of Mahmoud after being forced to pray in a mosque. All slaves are forced to go and pray in a mosque, he said. He was away from home for seven years and almost forgot about his own family. But, he said, with a very big smile, he is very, very happy to be back with them.

(iv) Yak Deng Yak from the village of Warawar. His family's original herd of cattle had been stolen by Arab raiders, and the family was in such difficult circumstances that he was going with his mother to seek help from the UN in Meiram. On the Meiram. On the way they were captured in an ambush

by Arab raiders. He was separated from his mother and taken to an Arab village. A girl used to steal 'good food' for him. When the people saw that the girl was friendly with him they sent him to work in the field where he had to cultivate ground nuts and to sleep on his own. He was given sorghum and water and some days he was beaten with a stick. His owner was called Ibrahim, who forced him to attend the mosque; if he did not 'do properly' in the mosque he was beaten. He has been away from home for four years until an Arab came and bought him. His mother was also in the same area and recruiting our men into the PDF. But that was now over one year ago. We want to have more frequent contact with our leaders in the Umma Party. Please convey our warmest greetings to Sayeed Sadiq El Mahdi and Mu-barak El Fadil.

INTERNATIONAL CAMPAIGN FOR TIBET,

May 6, 1997.

HON. ARLEN SPECTER,  
HON. FRANK R. WOLF,  
U.S. Congress.

DEAR SENATOR SPECTER AND REPRESENTATIVE WOLF: I write to thank you for your joint initiative in the Congress to address the absence of religious freedom in Tibet and elsewhere in the world, "The Freedom from Religious Persecution Act of 1997."

When the Chinese army entered Tibet in 1950 to "liberate" the people from a lamaist theocracy and to install a socialist atheistic state in its place, the primary target for eradication was the Tibetan Buddhist culture. More than six thousand monasteries, the great learning centers of a religious tradition that spanned much of Asia and repositories of precious scriptures and artifacts were razed to the ground. Monks and nuns were forced to disavow their faith and undertake acts of unspeakable cruelty. Those who could escape their oppressors risked their lives crossing the frozen passes of the Himalayas in flight to freedom in exile.

Today in Tibet, monks and nuns are still targeted as agents of the old regime. Communist cadres have taken the place of learned geshes, doctors of theology, in the monastic schooling of young novices, and the Chinese propaganda machine continues to spew out vituperative attacks against His Holiness the Dalai Lama. Nonetheless, the Tibetan people cling to their faith, for it is inextricably linked to their very identity as Tibetans.

I believe that the Congress will support your legislation because Americans, through succeeding generations, have been guided by a deep sense of spirituality, tolerance for their neighbors, and faith in fundamental human rights. The International Campaign for Tibet looks forward to working with your staff to move this legislation to successful passage.

Sincerely,

LODI G. GYARI,  
President.

HON. NEWT GINGRICH,  
*Speaker of the House,*  
*Washington, DC.*

HON. RICHARD GEPHARDT,  
*House Minority Leader,*  
*Washington, DC.*

HON. TRENT LOTT,  
*Senate Majority Leader,*  
*Washington, DC.*

HON. THOMAS DASCHLE,  
*Senate Minority Leader,*  
*Washington, DC.*

DEAR SPEAKER GINGRICH, SENATORS LOTT AND DASCHLE, AND REPRESENTATIVE GEPHARDT: Millions of Americans—of differing religious, ethnic and political persuasions—are coalescing behind a Movement of Conscience against religious persecution overseas.

The recently concluded MFN vote was but an opening chapter of that Movement, one we believe central to America's character and vital national interests. All Americans are shocked by the official Chinese newspaper dispatch that first noted how churches "played an important role in the change [in Eastern Europe]" and then urged that "[i]f China does not want such a scene to be repeated in its land, it must strangle the baby while it is still in the manger." The anti-faith persecutions of China's regime have followed the above script and similarly abhorrent persecutions are being committed by other regimes elsewhere in the world.

We urge Congress to take comprehensive action that will impose prohibitive costs on countries involved in widespread and ongoing persecutions of vulnerable communities of faith. As such we strongly urge support for the following consensus principles:

Legislation should be directed against the regimes formally condemned by the 104th Congress for anti-faith persecutions, and should contain mechanisms to deal with all regimes engaged in such conduct;

Hearings on such omnibus anti-religious persecution legislation should begin no later than September, 1997; and

Floor action on such legislation should take place by early November, since the Day of Prayer for the Persecuted church will be conducted in tens of thousands of American churches on November 6, 1997.

We believe that the above principles will send the strongest possible signal to all regimes now operating as if hunting licenses were in effect against vulnerable communities of faith. We believe that these principles will avoid piecemeal treatment of the issues raised by today's growing Movement of Conscience against worldwide anti-religious persecution. We believe that the principles will ensure that the world hears the cries of persecuted Christians and other believers in China and in Vietnam, Saudi Arabia, Egypt, Pakistan, Iran, Indonesia and other like countries—and hears as well the cries now rising from the unspeakable actions taking place in Sudan. Finally, we believe that the principles will unite all Americans behind a national policy based on universally recognized rights and freedoms.

In this regard, we believe that the Wolf-Specter bill provides the framework around which the coming debate should occur. We note the broad, bipartisan support enjoyed by the Wolf-Specter bill, and believe that its provisions would have a powerful effect in curbing today's persecutions. We wish to make clear that some of the bill's provisions may need to be strengthened, and many of us may work to do so. At the same time, we write to make clear that the critical need for omnibus legislation requires that any legis-

lation pertaining to global religious persecution should be incorporated into the Wolf-Specter hearing process and framework.

We would greatly appreciate your joint assurances that hearings and committee votes on Wolf-Specter will be scheduled so as to permit full debate and action on it before the end of the year.

Each of us has made it a matter of conscience to Shatter the Silence that in the past has sadly accompanied the persecution of believers around the world. Doing so, and joining in campaigns of education, action and prayer on behalf of the residents of today's gulags of faith, is for us a matter of simple justice we are determined and honor-bound to make happen.

We pray and believe that you and all Members of Congress will help lead this historic effort, doing so with the same force and unity that made the Jackson-Vanik legislation and the campaign against Soviet anti-Semitism the force it became for the freedom of all.

We look forward to meeting with you at your earliest convenience to discuss these matters.

Don Argue, Ed.D., President, National Association of Evangelicals, Member, State Department Advisory Committee on Religious Liberty Abroad; William L. Armstrong, Former Senator; Joel Belz, World Magazine; Chaplain Curt Bowers, Director, Chaplaincy Ministries, Church of the Nazarene; Dr. Paul F. Bubna, President, The Christian and Missionary Alliance; Dr. Joseph Aldrich, Multnomah School of the Bible; Gary L. Bauer, President, Family Research Council; William Bennett, Empower America; Dr. William R. Bright, Founder, Campus Crusade for Christ International; Dr. Tony Campolo, Eastern College; Chuck Colson, Chairman of the Board, Prison Fellowship Ministries; The Rev. John Eby, National Coordinator, American Baptist Evangelicals; Rabbi Yechiel Eckstein, Founder/President, International Fellowship of Christians and Jews; Dr. David Englehard, General Secretary, Christian Reformed Church; Rev. Jeff Farmer, General Superintendent, Open Bible Standard Churches; Dr. James C. Dobson, Founder, Focus on the Family; The Rev. Janet Roberts Echols, Great Commission Alliance; Dr. Thomas D. Elliff, President, Southern Baptist Convention; Rev. Bernard J. Evans, General Overseer, Elim Fellowship; Dr. Edward L. Foggs, General Secretary, Leadership Council, Church of God, Anderson, IN; Rev. Cecil Johnson, General Overseer, Church of God, Mountain Assembly; Mrs. Diane Knippers, President, Institute on Religion and Democracy; James M. Kushiner, Executive Director, Fellowship of St. James; Dr. Richard D. Land, Chairman/Christian Life Commission, Southern Baptist Convention; Dr. Don Lyon, Senior Pastor, Faith Center, Rockford, IL, Board Member, National Association of Evangelicals; Dr. D. James Kennedy, Senior Pastor, Coral Ridge Presbyterian Church; Rev. Richard W. Kohl, Presiding Bishop, Evangelical Congregational Church; Mrs. Beverly LaHaye, Chairman and Founder, Concerned Women for America; William C. Larson, Executive Minister, Iowa Baptist Conference; Rev. Stephen Macchia, President, Vision New England; Dr.

Kevin W. Mannoia, Bishop, Free Methodist Church of North America; Steven McFarland, Director, Center for Law and Religious Freedom, Christian Legal Society; Rev. Dr. Daniel Mercaldo, Senior Pastor, Gateway Cathedral, New York; Dr. John P. Moran, President, Missionary Church, Inc.; Dr. Marlin Mull, General Director of Evangelism and Growth, The Wesleyan Church; Mr. Martin J. Mawyer, President, Christian Action Network; Bishop George D. McKinney, Saint Stephen's Coptic; Dr. Juan Carlos Miranda, President, Hispanic Educational Association; Mr. Pedro C. Moreno, Attorney, International Coordinator, The Rutherford Institute; Mr. William J. Murray, Chairman, Religious Freedom Coalition; Dr. Richard John Neuhaus, President, The Institute on Religion and Public Life; Michael Novak, George Frederick Jewett Chair in Religion and Public Policy, American Enterprise Institute; Mr. Ralph Reed, Jr.; Rev. David E. Ross, Executive Director, Advent Christian General Conference; Rev. Michael Scanlan, T.O.R., President, Franciscan University of Steubenville; Mr. Frank Nicodem, Sr., Executive Vice President, Christian Association of Primetimers; Lenox G. Palin, Pastor, Calvary Bible Church, Neenah, WI, Board Member, National Association of Evangelicals; Fr. Keith Roderick, Secretary General, Coalition for the Defense of Human Rights Under Islamization; David Runnion-Bareford, Executive Director, Biblical Witness Fellowship, Confessing Movement Within the United Church of Christ; Bishop Ray A. Seilhamer, Bishop, Church of United Brethren in Christ.

Rev. Louis P. Sheldon, Traditional Values Coalition; Ronald J. Sider, President, Evangelicals for Social Action; Bishop Chester M. Smith, General Superintendent, Congregational Holiness Church, Inc; Rev. Steven L. Snyder, President, International Christian Concern; Marc D. Stern, Co-Director, Commission on Law and Social Action, American Jewish Congress; L. Faye Short, Director, RENEW Network; Dr. Robert L. Simonds, President, Citizens for Excellence in Education; Ken Smitherman, LL.D., President, Association of Christian Schools International; The Rt. Rev. James M. Stanton, Bishop, Episcopal Diocese of Dallas, Texas, President, American Anglican Council; Dr. Jack Stone, General Secretary, Church of the Nazarene; Rev. Mr. Keith A. Fournier, Esq., President, Catholic Alliance; Robert P. George, Department of Politics, Princeton University; Scott M. Gibson, President, American Baptist Evangelicals; Mr. Jerry Goodman, Founding Executive Director, National Conference on Soviet Jewry; Cheryl Halpern, National Chairman, National Jewish Coalition; Mrs. Diana L. Gee, General Director, Dept. Of Women's Ministries, Pentecostal Church of God; Dwight L. Gibson, North American Director, World Evangelical Fellowship; Anne Gimenez, Co-Pastor, Rock Church, Virginia Beach, VA, Board Member, National Association of Evangelicals, Lodi G. Gyari, President, International Campaign for Tibet; Rev. William J. Hamel, President, Evangelical Free Church of America; The

Rev. Walter W. Hannum, Founder, The Episcopal Church Missionary Community; Dr. James Henry, Senior Pastor, First Baptist Church, Orlando, FL, Former President, Southern Baptist Convention, Member, State Department Advisory Committee on Religious Liberty Abroad; Donald Hodel, Christian Coalition; Rev. Clyde M. Hughes, General Overseer, International Pentecostal Church of Christ; Bradley P. Jacob, Associate Dean, Geneva School of Law; Dr. Jack W. Hayford, Senior Pastor, Church on the Way; Professor Russell Hittinger, Warren Chair of Catholic Studies, The University of Tulsa; Warren L. Hoffman, General Secretary, Brethren in Christ Church; Ray H. Hughes, Chairman, Pentecostal World Conference; Dr. B. Edgar Johnson, Northwest Nazarene College; Dr. Joseph M. Stowell III, President, Moody Bible Institute; Thomas E. Trask, General Superintendent, General Council of the Assemblies of God; Dr. R. Lamar Vest, First Assistant General Overseer, Church of Good, Cleveland, TN; Rev. Jack W. Wease, General Superintendent, Evangelical Methodist Church; Bishop Donald W. Wuerl, Diocese of Pittsburgh; Mr. Joseph Tkach, President, Worldwide Church of God; Rev. Albert Vander Meer, Synod Minister, Synod of Mid-America, Reformed Church in America; Commissioner Robert A. Watson, National Commander, The Salvation Army; The Rev. Todd H. Wetzel, Executive Director, Episcopalians United; Rev. Wayne L. Yarnell, Executive Director, Primitive Methodist Church in the USA; Dr. Ravi Zacharias, Founder, Ravi Zacharias International Ministries.

TESTIMONY OF TSULTRIM DOLMA, VICTIM OF  
RELIGIOUS PERSECUTION

My name is Tsultrim Dolma. I am 28 years old. I am one of the one thousand Tibetan refugees who came to the United States through the Tibetan Resettlement Program, authorized by the United States Congress in 1991.

I never imagined that I would someday testify before you esteemed gentlemen and gentleladies. Now that I am here, I feel it is both a privilege and responsibility to tell you about my experiences—among the thousands of Tibetans who flee into exile, very few have their stories heard.

I am not an educated person, I don't know about politics. But I do know what it is to live under Chinese rule. And I know, although I was born after the Chinese came into Tibet, that Tibet is different than China.

I have asked my friend Dorje Dolma to read the rest of my testimony because my English is not very good.

I was born in Pelbar Dzong, Tibet, near Chamdo which prior to the Chinese invasion in 1949 was the easternmost administrative center of the Dalai Lama's government. For as long as I can remember, I yearned to become a nun. It was difficult for me to pursue my studies because the nunnery near my village had been completely destroyed during the Cultural Revolution.

I took my nun's vow at age 17 and, soon after, left my home with a small group of villagers to make the customary pilgrimage to Lhasa, the capital and spiritual center of Tibet, and a month's journey from my home. Once there was able to join the Chupsang nunnery on the outskirts of the city.

In Lhasa it was unavoidable to feel the tension due to the large differences between the Tibetans and Chinese living there, and within a year, on October 1, 1987, China's National Day, I experienced at first hand the consequences of that tension.

On that day, monks from Sera and Nechung Monasteries peacefully demonstrated for the release of their imprisoned brothers. Hundreds of Tibetans gathered around in support. Public Security Bureau Police moved through the crowd videotaping demonstrators. Then, unexpectedly, opened fire on the crowd. The Tibetans responded by throwing stones at the cameras, but a number of monks were arrested and dragged to the Police station.

I joined a large group that converged on the station. We heard gun shots from the rooftop and tried to get inside, but the police fired down into the crowd. Many Tibetans were killed and many other badly injured. Outraged at the massacre, some Tibetans set fire to the building. I watched as Venerable Jampa Tenzin the caretaker of the Jokhang Temple, led a charge into the building to try to free the monks. When he emerged about ten minutes later, his arms were badly burned and had long pieces of skin peeling off. Two young novice monks came out with him and were also badly burned. Soon afterwards, Jampa Tenzin was arrested and detained at Sangyip Prison where he is known to have undergone severe ill-treatment.

The Great Monlam Prayer Festival which occurred the following spring was the next occasion for major protest. Chinese authorities had ordered the monks of all of Lhasa's monasteries to attend, as they had invited journalists from many different countries to film the ceremony as an example of religious freedom in Tibet. The monks of Sera, Drepung, Ganden and Nechung decided to boycott the ceremony, but were forced to attend at gun point. Under guard, the monks made the traditional circumambulation around the Jokhang, Lhasa's central cathedral.

After completing the ceremony, those monks joined together in calling out loudly to Tibetan officials working for the Chinese government who were watching the ceremony from a stage next to the Jokhang. They demanded the release of the highly revered incarnate lama, Yulo Dawa Tsering, who had been arrested some months before and of whom nothing had been heard. One of the official's bodyguards then fired at the demonstrators, killing one Tibetan. A riot ensued and the army proceeded to fire into the crowd. Soldiers chased a large number of monks into the Jokhang and clubbed 30 of them to death.

Eighteen lay Tibetans were also killed in the cathedral. Twelve other monks were shot. Two monks were strangled to death, and an additional eight lay Tibetans were killed outside the cathedral. The news of the deaths spread throughout the city.

After we saw the terror and turmoil in the streets, some nuns from my Ani Gumpa and I decided to demonstrate in order to support our heroic brothers and sisters in Lhasa, particularly the monks who had been arrested and are in prison and whose cases even now have not been settled. On April 16, about six weeks after the massacre during Monlam, four of us demonstrated for their release and the release of women and children. We felt the Chinese were trying to destroy all the patriotic Tibetans in prison by mistreating them. The Chinese government has publicized that there is freedom of religion in Tibet, but in fact, the genuine pursuit of our

religion is a forbidden freedom. So many difficult restrictions are placed on those entering monastic life, and spies are planted everywhere.

My sister nuns and I were joined by two nuns from Gari Gumpa and we were all six arrested in the Barkhor while shouting out demands. As we stood on the holy walk of Barkhor, we were approached by eight Chinese soldiers who spread out and grabbed us. Two soldiers took me roughly by the arms, twisting my hands behind my back. Two of the nuns, Tenzin Wangmo and Gyaltsen Lochoe, were put in a Chinese police jeep and driven away. The rest of us were thrown into a truck and taken to the main section of Gutsa prison, about three miles east of Lhasa.

When we arrived, we were separated and taken into various rooms. I was pushed into a room where one male and one female guard were waiting. They removed the belt which held my nuns robe and it fell down as they searched my pockets. While I was searched, the guards slapped me hard repeatedly and yanked roughly on my nose and ears.

After the search, I was led outside to another building where two different male and female guards waited to begin the interrogation. "What did you say in the Barkhor? Why did you say it?" The cell contained a variety of torture implements: lok-gyug, electric cattle prods, and metal rods. I was kicked and fiercely beaten as I was interrogated until mid-day, and then pulled to my feet and taken to the prison courtyard where I saw the three other nuns from Chupsang.

We were made to stand in four directions. I was near the door so that every Chinese soldier who passed by would kick me in passing. Our hands were uncuffed and we were told to stand with our hands against the wall as six policemen took each one in turn, held us down and beat us with electric prods and a small, broken chair and kicked us. Gyaltsen Lochoe was kicked in the face. I was kicked in the chest so hard that I could hardly breathe. We were told to raise our hands in the air, but it was not possible to stay in that position and we kept falling down. As soon as I fell, someone would come and force me up. We were constantly questioned regarding who else was involved in arranging the demonstration.

All during the interrogation, we were not allowed to fasten our belts and so our robes kept slipping off. We would constantly try to lift them and adjust them. I tried to think of what I could possibly say to answer the questions. "How did you choose that day? Who was behind you?" I could only see feet. Many different pairs of feet approaching us through the day. We were repeatedly kicked and beaten. "The Americans are helping you! Where are they now? They will never help you! Because you have opposed communism, you are going to die!"

After some hours had passed, a large dog with pointed ears and black and white spots was brought in, led on a heavy chain. The police tried to force us to run, but we simply did not have the strength. The dog looked at us with interest, but did not approach.

Finally, as sunset approached, we were handcuffed and taken into a building and made to walk through the hallway two by two. Here and there were small groups of Chinese soldiers on both sides of the corridor. As we passed, we were punched and kicked, slapped and pulled hard by the ears. My cell, measuring five feet by five feet, was empty except for a slop basin and small bucket. That night, I quickly passed out on the cold cement floor.

The following morning, I was taken to a room where three police were seated behind a table. On its surface was an assortment of rifles, electric prods and iron rods. I was told "Look down!" Throughout my detention, I was never allowed to look straight at their faces. While answering I had to look to the side or face down.

One of them asked me "Why did you demonstrate? Why are you asking yourself for torture and beatings?" My knees began to shake. I told them: "Many monks, nuns and lay people have been arrested, but we know Tibet belongs to the Tibetans. You say there is freedom of religion, but there is no genuine freedom!" My answer angered them and the three got up from behind the table, picking up various implements. One picked up an electric rod and hit me with it. I fell down.

They shouted at me to stand, but I couldn't and so one pulled up my robe and the other man inserted the instrument into my vagina. The shock and the pain were horrible. He repeated this action several times and also struck other parts of my body. Later the others made me stand and hit me with sticks and kicked me. Several times I fell to the floor. They would then force the prod inside of me and pull me up to repeat the beatings.

For some reason I began to think of a precious herb that grows in Tibet called Yartsa Gunbu. Tibetans believe it is a cross between the kingdoms of plants and animals because during the summer it gives the appearance of being a worm. This medicine herb is quite rare. In my region, the Chinese force a monthly quota on each monk and nun which consists of thousands and thousands of such plants. I shouted out: "Before 1959, it was considered a sin for monks to pick the Yartsa Gunbu! It was a sin, and you have forced them to do it!"

I remained in detention for more than four months. For the first month, I was beaten every morning during the interrogations. For the first several days, different levels of authorities came to my cell. At first I was afraid but as time went by and I thought about the monks, and other men and women who were imprisoned, many of whom had families to worry about, I began to realize I had nothing to lose. My parents could lead their lives by themselves.

I was continuously terrified of possible sexual molestation. But as the days went by, that did not occur. Sitting in my cell, I would remind myself that I was there because I had spoken on behalf of the people of Tibet and I felt proud that I had accomplished a goal and was able to say what I thought was right.

In Gutsa prison in the summer of 1988, there were all together about 32 nuns and lay women. All the women were kept in the ward for political prisoners. During that time, one of the nuns, Sonam Chodon, was sexually molested.

Fifteen days after my release from prison on August 4, 1988, a Tibetan approached me and asked if my sister nuns and I would like to talk to a British journalist who was secretly making a documentary in Tibet. We all felt to appear in the interview without hiding our faces was the best way to make a contribution. The ultimate truth would soon be known so there was no need to hide. We had truth as our defense.

After our release from prison, we were formally expelled from Chupsang by the Chinese authorities and sent back to our villages. We were not allowed to wear nuns robes and were forbidden to take part in religious activities. We were not allowed to talk

freely with other villagers. I was forced to attend nightly re-education meetings during which the topic of conversation often came around to me as "a member of the small splittist Dalai clique which is trying to separate the motherland." I was so depressed and confused.

I never told my parents what had happened in prison. When word came of the British documentary in which I took part, everyone began to discuss it. Most Tibetans thought I was quite brave, but some collaborators insulted me. It soon seemed as if arrest was imminent. I began to fear for my parents' safety and so decided to flee to the only place I could think of—Lhasa—to appeal again to Chupsang nunnery for re-admission.

After arriving in Lhasa, I set out for the hour's walk to Chupsang. I found a Chinese police office has been set up at the nunnery. I was told to register at the office and, while there, was told re-admission was not possible. I realized that the police officer there would arrest me if I stayed. Greatly discouraged, I set out to make my way back to Lhasa.

Just below the nunnery there is a Chinese police compound the Tibetans call Sera Shol Gyakhang. As I passed, I saw three Chinese soldiers on bicycles. They followed me a short distance before I was stopped. One of them took off his coat and shirt and then tied the shirt around my face, and shoved the sleeves in my mouth to stop me from crying and yelling. I was raped by the three on the outer boundary of the compound. After doing that bad thing to me, they just ran away.

I remained in Lhasa for two months under the care of local Tibetans. As expected, the release of the documentary caused an uproar with the Chinese authorities. My sister nuns tried to disguise themselves and wore their hair a little longer. I had lost all hope of continuing to live in Tibet under so many obstructions and restrictions and the ever present possibility of re-arrest. Even if I could stay, the Chinese would forbid me to study and I feared them in many other bad ways. I began to think of His Holiness the Dalai Lama in India. At that time, I didn't know there were so many other Tibetans living there as well, but I thought if only I could reach him, if I could only once see his face...

Another nun and I heard of some Tibetan nomads who were taking medicines to the remote areas and traveling to Mount Kailash in a truck. From there we joined a group of 15 Tibetans to travel to the Nepalese border. In December 1990, I reached northern India.

When I first met His Holiness, I could not stop crying. He asked, "Where do you want to go? Do you want to go to school?" He patted my face gently. I could not say anything. I could only cry as I felt the reality of his presence. It was not a dream. In Tibet so many long to see him. At the same time, I felt an overwhelming sadness. Because I was raped, I felt I could no longer be a nun. I had been spoiled. The trunk of our religious vows is to have a pure life. When that was destroyed, I felt guilty to be in a nunnery with other nuns who were really very pure. If I stayed in the nunnery, it would be as if a drop of blood had been introduced into the ocean of milk.

I have been asked by esteemed persons such as yourselves what makes Tibetan nuns, many very young, so brave in their support of the Tibetan cause. I say that it is from seeing the suffering of our people. What I did was just a small thing. As a nun, I sacrificed my family and the worldly life, so for

a real practitioner it doesn't matter if you die for the cause of truth. His Holiness the Dalai Lama teaches us to be patient, tolerant and compassionate. Tibetans believe in the law of Karma, cause and effect. In order to do something to try to stop the cycle of bad effect, we try to raise our voices on behalf of the just cause of Tibet. Thank you.

EVANGELICALS FOR SOCIAL ACTION,

Wynnewood, PA, October 21, 1997.

Congressman BEN GILMAN,  
Chairman, House International Relations Committee, Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN GILMAN: We write to convey our strong support for the Wolf-Specter bill on religious persecution which is before your committee.

We write as progressive Christians long identified with struggles for economic and racial justice. As people who supported U.S. sanctions against South Africa because of apartheid, we endorse the application of almost identical measures against Sudan.

We find it both false and highly offensive that some are seeking to portray the Wolf-Specter bill as a "Religious Right" agenda. Our support for and belief that the Wolf-Specter bill is urgently needed gives the lie to such nonsense.

Aware that this bill was drafted to be moderate in its reach, scope and process we urge you to pass it without further compromise.

Sincerely,

RONALD J. SIDER,  
President.

Other Signers: Richard Mouw, President, Fuller Theological Seminary.

DEPARTMENT OF SOCIAL  
DEVELOPMENT AND WORLD PEACE,  
Washington, DC, October 22, 1997.

HON. BENJAMIN A. GILMAN,  
Chairman, House International Relations Committee, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: As director of the U.S. Catholic Bishops' Office of International Justice and Peace. I write to renew our support for the Freedom from Religious Persecution Act of 1997 (H.R. 2431), based on changes agreed to by the sponsors. We very much welcome this legislation with these changes and hope it can be the basis for a focused and effective U.S. policy on religious persecution.

In testimony before the International Relations Committee last month, we outlined the U.S. Bishops' teaching and action on religious freedom, and offered our general support to an earlier version of this bill. The bill, and the wider campaign of which it is a part is a welcome effort to raise the consciousness of the American public about persecution of Christians and members of other religious communities in many countries, and to make religious freedom a top priority of the United States Government.

The freedom from Religious Persecution Act rightly links U.S. aid to a country's performance on religious liberty, a linkage that the U.S. bishops have long urged for the full range of fundamental human rights. The fact that it singles out only egregious acts of religious persecution does not create a hierarchy of human rights any more than it creates a hierarchy of religious freedoms. It simply offers a practical corrective to U.S. policy in one area where that is much needed. While the bill focuses on religious freedom, its practical benefit would be to end U.S. aid given directly to governments that, in most cases, are abusing not just religious

rights but a whole range of basic human rights.

The bill would also improve reporting on religious liberty by the State Department and strengthened training of foreign service and immigration officers, which, given our experience in these areas, seem well justified. Finally, the bill would restore some vital procedural safeguards for those seeking asylum from persecution on account of their religion, safeguards that we urge be restored for those claiming persecution on the grounds of race, nationality, membership in a particular social group, or political opinion.

In our testimony we identified several areas in which the bill might be improved. Since then, we understand that several changes, consistent with our proposals, have been made or agreed to by the sponsors.

Two critical changes were made in the Amendment to H.R. 2431, as reported by the Subcommittee on International Operations and Human Rights: broadened coverage to include victims of persecution of all religious groups in all countries; and a broadened humanitarian exemption to include development and related kinds of aid.

Our understanding, based on discussions with the sponsors, is that further changes will be made to the bill, including: a broadened presidential waiver that would cover situations when a waiver would be necessary to meet the purposes of the act; the addition of opportunities for public comment; and changes in the multilateral development aid language to exempt IDA programs which directly aid the poor.

In addition, we strongly support the continued inclusion of provisions that would end military aid, financing and sales to a sanctioned country.

The changes made so far do not address our concerns over the immigration provisions of the bill, which we understand will be dealt with in the Judiciary Committee. As noted in our testimony before your committee, we welcome the effort to expand protection for refugees fleeing religious persecution, but believe such protections could be further strengthened and should be available to the other four categories of persecuted persons. Short of including the safeguards for these other categories of asylum seekers, our continued support for this legislation is dependent upon retaining the minimum protections contained in the Amendment to H.R. 2431, as reported by the Subcommittee.

The bill, with the changes proposed by the sponsors, addresses a serious problem in a serious way. We hope it will provide a framework for bi-partisan action in this Congress to increase U.S. attention and action on religious liberty. The bill is not, nor does it purport to be, a solution to all violations of religious liberty around the world. It does, however, offer an effective and reasonable tool for raising the curtain on a too-often ignored problem, combating the most blatant forms of religious persecution, and helping to improve the situation of millions who suffer simply because of their religious beliefs.

We are committed to continue to work to see that a focused and effective bill will emerge from the Congress, a bill that will serve as the framework for a serious and sustained U.S. policy on religious persecution. The U.S. Catholic bishops have long worked to protect religious liberty not only for our fellow Catholics, but for all believers. We urge the International Relations Committee to adopt the bill, with the changes proposed

by the sponsors, as a major step forward in this urgent effort.

Sincerely yours,

REV. DREW CHRISTIANSEN, S.J.,  
Director, U.S. Catholic Conference.

RELIGIOUS ACTION CENTER  
OF REFORM JUDAISM,  
Washington, DC, October 24, 1997.

HON. BENJAMIN A. GILMAN,  
Chairman, House International Relations Committee, Rayburn House Office Building, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: On behalf of the Union of American Hebrew Congregations and the Central Conference of American Rabbis, which represent 1.5 million Reform Jews and 1,800 Reform rabbis in North America, I write to express support for the Freedom From Religious Persecution Act of 1997 (H.R. 2431).

We have been horrified by stories of religious minorities suffering brutal persecution at the hands of governments and local authorities. Tibetans are ruthlessly punished by the Chinese for simply owning a picture of their spiritual leader, the Dalai Lama; the Islamic government in Sudan commits atrocities against its Christian population including torture, rape and murder; and in Egypt, the Coptic Christian minority has been the target of Islamic fundamentalist violence. We cannot turn our back against innocent people whose sole "crime" is the expression of their deepest religious beliefs. Having so often been the victim of persecution, it is our duty and obligation as part of the Jewish community to not only speak out against the persecution of other religious groups around the world, but to take affirmative steps to prevent such persecution in the future.

As committed as we are to combating religious persecution, the legislation as it was originally introduced was problematic for us. We appreciate your willingness to work with us in responding to our concerns regarding the legislation, and we are pleased that we are now able to support the bill. The current version of the bill addresses our most pressing issues by: broadening the religious persecution definition to include all religious groups; moving the monitoring office from the White House to the State Department; providing a presidential waiver for sanctions when they would endanger the persecuted group; exempting humanitarian and development aid; and tightening the sanctions language to limit the export ban. (We understand that additional changes in the refugee section may be proposed, either in advance of the markup or by amendment at the markup itself, and we may be supportive of those provisions as well.)

We look forward to working with you for the swift enactment of this legislation

Sincerely,

RABBI DAVID SAPERSTEIN,  
Director.

Mr. BEREUTER. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri [Mr. BLUNT], a member of the committee.

Mr. BLUNT. Mr. Speaker, I thank the gentleman for yielding this time to me. I rise in opposition to the bill, and I do that reluctantly because of my great respect for the chairman, but I think it would be wrong to pass this legislation through this House and to do it in this atmosphere. We need more time to look at this.

But more importantly, I would like to refer back to my colleague from Vir-

ginia's [Mr. WOLF] comments. There is surely religious persecution in the world today. This may even be part of it. But to pass this legislation to single out this kind of religious persecution in the face of what we know is happening all over the world turns our back on people who are in prison tonight, turns our back on people who are in slave camps tonight, turns our back on people whose lives have been given up over the issue of taxation.

Now it could very well be, Mr. Speaker, that we should get to taxation as an issue we are concerned about, but we should not address that first. We should not address that at the expense of these other issues. We need to look at persecution, we need to look at it realistically, we need to look at it all over the world, and we need to address those cases first that are worse, not those cases that are about whether somebody is allowed to perform in a tax-exempt atmosphere or not, whether somebody's movie is boycotted in another country or not, boycotting would seem to me to be a pretty specific freedom of speech right that we would defend in America, or whether or not somebody pays taxes as a church in another country or not before we deal with people whose lives are in danger all over the world, people in Sudan, Buddhists in Tibet, Christians in Shanghai. We need to deal with those issues first.

I urge my colleagues not to vote for this resolution.

Mr. GILMAN. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona [Mr. SALMON].

Mr. SALMON. Mr. Speaker, I really respect the folks that have gotten up to speak in opposition. I believe that they believe very strongly in their position, and we cannot criticize somebody for speaking their beliefs. That is what this is all about. But I am flabbergasted at those who might suggest that since there is other persecution, religious persecution, going on in the world that we should not start with this.

Mr. Speaker, frankly I am pretty appalled to hear that kind of language because there is religious persecution going on in the world, and we have to start somewhere. Here we have an opportunity to stand up and reaffirm what this country is all about, and I am very, very dismayed that some have picked up on this taxation comment. This is simply a sense of Congress. It was one of the examples used of many.

We are not asking Germany to change their taxation policies. We would be as offended if they did that to us. We are simply using many, many examples whereby minority religions, again this is much broader than Scientology, are persecuted in Germany. We are asking for them to reaffirm a position, simply to reaffirm their position

which their Constitution states, and that is that they endorse religious tolerance in the country of Germany.

Yes, they are an ally, and yes we treasure that relationship, but we ought to be able to go to them and tell them the things which trouble us.

I was talking with the gentleman from Ohio [Mr. NEY], and he pointed out in the paper this morning that there was a German citizen who was just granted asylum in this country because of religious persecution in Germany. Yes, that is right, granted asylum in this country because of religious persecution in Germany. We have got to do all that we can to stop that.

And again, I want to reaffirm it is much more than taxation. That was simply one of the ideas that we enumerated in the many ideas or the many examples of religious intolerance in Germany. Let us get beyond that. Let us read the bill, because it is much broader than that, and let us practice what we preach and stand for religious tolerance across the globe.

Mr. BEREUTER. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I am opposed to this resolution, and I think that I am as sensitive to the issue of persecution as anyone. I believe I am the leader in minority group membership in the House, claiming two myself, and I am going to vote against this resolution.

I would not vote for a resolution that approved of the way Germany is dealing with the Scientologists and others, but I do not believe a case has been made to do the very, very solemn act of having this House of Representatives single them out for condemnation. There are a lot of things in this world of which we disapprove, and I think the gentleman from Virginia quite correctly pointed out that if we were going to make a list of practices worthy of condemnation in this great democratic institution, even those critical of Germany's treatment of Scientologists would put it much lower on the list than practices that have gone unmentioned here. So there is a disproportion.

Secondly, and I understand from my friend from Arizona that is in the resolution, my colleagues cannot disclaim it, they also have in the resolution a specific example that people in the youth wing of two political parties boycotted movies. Well, I do not always like people who boycott movies, but are we going to have a resolution condemning the Baptists for condemning Disney? I mean, to intermingle genuine religious persecution with a decision by private individuals to boycott a movie is a mistake. It is also inappropriate.

Also I do think we should practice what we preach, but I do not think we should preach what we do not practice.

If we are going to look at people who are engaging in inappropriate religious persecution, I think the Governor of Alabama would be on my list. I think people who are atheists and agnostics in parts of Alabama are under assault and having their constitutional rights impinged by the Governor of Alabama.

The fact is that Germany is overall a very democratic nation. It is not perfect. There are not a lot of perfect countries around. But to single out Germany this way while other countries that have far worse patterns of abuse are ignored, to intermingle legitimate efforts like a boycott by political parties with actual persecution and to ignore some of the problems we have ourselves is wholly inappropriate.

So, Mr. Speaker, I do not think this resolution ought to pass.

Mr. BEREUTER. Mr. Speaker, I thank the gentleman from Massachusetts for his strong statement.

Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Speaker, I thank the gentleman for yielding this time to me, and I rise today in opposition to this resolution mainly because I have experienced a discussion over a period of time as a member of the Congressional study group on Germany with German members of Parliament about the issue, particularly of persecution of Scientologists and those reports we have had.

I recall going over there earlier this year and engaging in quite a lengthy discussion with several of their members over this matter, and I have examined the paperwork and the documents and the press accounts and so on, and I am not here today to be able to talk about every instance of allegation of somebody being persecuted with respect to a particular religion, but with respect to the Scientologists in particular I am unconvinced that the Germans are in any way persecuting them.

Germany has a different kind of system for recognizing religions over there than we do, and I do not necessarily agree with that, but they have a system in which there is not tithing like we have. They collect the taxes from the people, the contributions, if my colleagues will, to the churches, and apportion them out to the various churches that are recognized, if my colleagues will, by the government. I do not, again like I say, necessarily agree with that, but the fact that they do not think that Scientology merits their giving them this status and the, quote, persecution that people perceive occurring simply because they are not recognized for purposes under the German Government's auspices to practice religion is not a reason to have this resolution out here today.

The truth of the matter is that Scientologists are perceived over there, rightly or wrongly, and some have said

that here in this country, I do not know if it is right or wrong, as having persecuted some of their own members. There are those who I have heard over the years allege that it is difficult to ever quit the Church of Scientology. There are parents that have complained their children have been held in against their will. There are all kinds of arguments like that.

But I was hearing in Germany, again I do not know the merits of them, but that is what the German Government believes. It is not just an issue of taxation. They do not think that this group, that is the Scientologists, are truly deserving of their recognition. It is not a matter of are they Christian, are they Buddhists, are they whatever, it is a matter of the way they behaved in Germany and their belief that they are not indeed entitled to this recognition.

So I would urge a defeat of this resolution. It is very, very damaging to our relationship with Germany.

Mr. BEREUTER. Mr. Speaker, I thank the gentleman from Florida for his strong statement.

Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Ohio [Mr. OXLEY] the chairman of the German American study group.

Mr. OXLEY. Mr. Speaker, I also rise in opposition to this, I think, well-intentioned effort, but what is really the purpose behind this resolution? Is it to embarrass the German Government? Is it to embarrass the German people? What will ultimately come out of passage of this resolution? I frankly fail to see what good it would do.

As the gentleman from Nebraska [Mr. BEREUTER] indicated, I am the chairman this year of the congressional study group on Germany and have had numerous discussions with our colleagues from the Bundestag particularly and also with the German Ambassador about this very sensitive issue.

I was concerned, frankly, when I looked at a copy of the letter from the German Ambassador to the distinguished chairman of the Committee on International Relations, the gentleman from New York [Mr. GILMAN], in which he indicates that he had offered to have a discussion with those who would support this amendment, and as near as I can tell, and this was dated October 29, has had no opportunity whatsoever to tell the German side of the story on this matter. I find that frankly appalling when Germany is one of our staunchest allies and ones who have a great deal at stake in our success in Europe, expanding NATO, expanding trade relations and the like. And so instead of trying to stick a needle in the eye of the Germans, it seems to me we ought to be more helpful in trying to come to understand what these problems are.

I find the language in this resolution quite strong, particularly when it talks

about a German fostering an atmosphere of intolerance toward certain minority religious groups. Then it goes on to say the resolution expresses concerns that artists from the United States, members of minority religious groups, continue to experience German Government discrimination. Now, I fail to see how the German government is somehow behind these boycotts of certain movies. There may be particular political groups, but as the gentleman from Massachusetts [Mr. FRANK] said, that happens all the time over here.

So I would say to our friends, let us defeat this resolution and look toward a more positive attitude as we relate to our strong allies such as Germany.

Mr. BEREUTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I understand the other side has a closing statement, and so I will conclude the opposition to the resolution, and I do rise and continue my strong opposition to the resolution.

Germany is a free country in which religious freedom is guaranteed under the Constitution and thus sacrosanct. The U.S. State Department country report on human rights clearly confirms this in its most recent report.

I would add that I think we need to be reminded every time that what we do as a body expressing our views on foreign policy is taken very seriously. This resolution is not balanced. It singles out Germany for a variety of practices, particularly those related to Scientology where their position is no different than seven or eight other European countries and several other countries outside the European Continent.

□ 1815

This is a troubling situation for them. It is a matter that is pending currently in their tax court. But I think it is important we not have Tom Cruise or John Travolta setting foreign policy in this country, and I think that is a driving factor behind this legislation. It is very unfortunate. I urge my colleagues to oppose the resolution.

Mr. Speaker, I yield back the balance of my time.

Mr. GILMAN. Mr. Speaker, I yield the balance of my time to the gentleman from Ohio [Mr. Ney], who will give our concluding remarks.

Mr. NEY. Mr. Speaker, it is probably pretty good we are coming down to the closure, because now we are coming down to the ridiculous, to mention that Tom Cruise and John Travolta are setting foreign policy. John Travolta and Tom Cruise and Ann Archer and Chick Corea are fortunate enough to have a celebrity status that can bring attention to the issue of discrimination, not alleged, not taxation, but discrimination.

So I am glad that their intent is not to set foreign policy, but they have given of their time to set forth a cause

that is very, very important to those who cannot be on this floor to speak or, to those who do not have celebrity status, to be able to be heard, not only here, but in Germany.

This is not about taxation. Let me tell you about support, as far as people saying this does not have support. Things do not get lightly here to the floor. This was not introduced yesterday. This has been around. It has support, because Democrats and Republicans have voiced that they want this on the floor tonight, Mr. Speaker. They want the people of this country and the people around the world to understand this issue, Mr. Speaker.

And the fact that now our Government has gone a step further and has officially granted asylum, do you know how hard it is to get asylum? Our Government stated yesterday, it was in the Washington Post today, that asylum has been granted to a German citizen because they dared to be something different, of a different religion, than us. That is how far this has gone.

Painful words, someone said. It is a shame we are to the point of what someone may consider painful words. The reason we have painful words is because there have been painful deeds, not something someone has made up, but posters that say "no thank you" to a play on the word of "sect," of minority religions.

It goes a little beyond that. Those official sanction posters that have a fly swatter to swat at those pesky little minority members of a religion. It has gone to the point of not someone saying, let's not watch a movie, but of a government that has told citizens of the United States that you in fact shall not perform in the country of Germany because you are a different religion that we just simply do not like that is the type of thing that has occurred.

I went to Germany. We tried to talk about this and got the fist pounding that, we will not talk about it. As far as primary sponsors, I would ask any of my colleagues if either side of the aisle sitting on the floor of this House tonight, Mr. Speaker, if anybody from the German Embassy called them, because I have been out front on this issue for religious freedom for minorities, and we haven't had any calls, and I did a quick check, and nobody I know of supporting this has had any type of call in fact.

All we know is in the press. Today in Germany, they just said, as a matter of fact, an official of the German Government simply said this will not be brought up by the U.S. Congress until after January maybe to be discussed, because I guess they set our foreign policy now.

So no matter how good an ally, the real shame tonight is the fact that they have not wanted to communicate on this issue. The fact is, they continue to want to choose who in fact from this

country can go to their country, who in fact they will put under surveillance because they simply do not like the type of religion they are.

These are Americans we are talking about. We are not out to destroy the relationship of our country, but we are talking about standing up for the rights of our own American citizens. That is what this is about tonight.

We cannot turn our back any longer on this issue. It has been mentioned about the other religions, about the Baha'is. It has been mentioned about persecution of people around the world. I am sorry other things have not hit the floor. I am not saying they are not important. I believe that we should stand up for persecution around the world. We have done it in some votes, obviously, with Chinese resolutions.

But just because those resolutions didn't hit the floor of this House tonight does not mean this is not any more important.

So this is not something fabricated, this is not something we are anti-German and we just wanted to bring this up tonight because we didn't have anything to do. These are serious true incidents that have happened over and over and over. Members of Congress have stated their feelings about this and tried the diplomatic route over and over and over. And, yes, this does have support, and that is how this did end up on the floor of this House tonight.

This is about standing up, no matter what you think of another religion, for American citizens' rights, and if the Democrat or the Republican Party dared, dared, on the registration forms in the United States to say, "Are you a Catholic or not?" or, "Are you a Protestant, or are you a Muslim, or are you a Jew?" if that dared to happen in this country, do you know what type of outcry there would be? On the forms, it happens over there about certain religions only: Are you a member or not?

It does exist; it is real; we need to stand up.

In closing, I am a Roman Catholic of German background tonight that stands on the floor simply saying, in fact, we have to stand up for religious freedom tonight. Our country was found that way. They didn't say bring in your tired, your poor, and the religion that we choose that can come here. This is so basic to American principles that everybody should voice their support of this.

I urge the bipartisan support of standing up tonight, not to slap at another country, but to stand up tonight for religious freedom.

Mr. GILMAN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. All time has expired. The question is on the motion offered by the gentleman from New York [Mr. GILMAN] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 22, as amended.

The question was taken; and on a division (demanded by Mr. BEREUTER) there were—ayes 3, noes 12.

Mr. SALMON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

#### EXPO 2000

Mr. BEREUTER. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 139) expressing the sense of Congress that the U.S. Government should fully participate in EXPO 2000 in the year 2000, in Hannover, Germany, and should encourage the academic community and the private sector in the United States to support this worthwhile undertaking.

The Clerk read as follows:

#### H. CON. RES. 139

Whereas Germany has invited nations, international and non-governmental organizations, and individuals from around the world to participate in EXPO 2000, a global town hall meeting to be hosted in the year 2000, in Hannover, Germany, for the purpose of providing a forum for worldwide dialogue on the challenges, goals, and solutions for the sustainable development of mankind in the 21st century;

Whereas the theme of EXPO 2000 is "Humankind-Nature-Technology";

Whereas EXPO 2000 will take place in the heart of the newly unified, free, and democratic Europe;

Whereas Germany has established a stable democracy and a pluralistic society in the heart of Europe;

Whereas more than 40,000,000 people in the United States can trace their ancestry to Germany, and in 1983 the United States and Germany celebrated the Tri-Centennial of immigration of Germans into the United States;

Whereas Germany has been a close political and military ally of the United States for nearly five decades and has been a driving force with respect to the political, monetary, and economic integration of Europe;

Whereas the United States, as a leading political, intellectual, and economic power, maintains a strong interest in the worldwide strengthening of political freedom and human rights, open market economies, and technological advancement throughout the world; and

Whereas the United States is eager to share with the global community the vast and promising public and private efforts being made to prepare for the next century; Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring), That it is the sense of Congress that the United States—*

(1) should fully participate in EXPO 2000, a global town hall meeting to be hosted in the year 2000, in Hannover, Germany, for the purpose of providing a forum for worldwide dialogue on the challenges, goals, and solutions for the sustainable development of mankind in the 21st century; and

(2) should encourage the academic community and the private sector in the United

States to support this worthwhile undertaking.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Nebraska [Mr. BEREUTER] and the gentleman from New Jersey [Mr. PAYNE] each will control 20 minutes.

The Chair recognizes the gentleman from Nebraska [Mr. BEREUTER].

#### GENERAL LEAVE

Mr. BEREUTER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on House Concurrent Resolution 139.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

Mr. BEREUTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in 3 years Germany will be hosting EXPO 2000, a World's Fair to mark the new millennium. The timing and the location of this event could hardly be more appropriate. Hannover, Germany, is the center of a new Europe.

Europe, as we all know, is in the center of major changes. By the year 2000, there will be at least three new members of NATO and also new members in the EU. Europe is rapidly unifying, and EXPO 2000 represents a showcase to demonstrate that change. To date, 143 nations have agreed to participate.

I would note that President Clinton noted on August 15 that the United States was accepting the German invitation to participate in EXPO 2000 and encouraged private industry to do so. In this respect, it is similar to resolutions that the Congress has approved in the past regarding U.S. participation in the EXPO in Lisbon.

House Concurrent Resolution 139 comes to the Committee from the Congressional German-American Study Group. The cosponsors include the former chairmen on both sides of the aisle; the gentleman from Indiana [Mr. HAMILTON], the current German-American Study Group chairman; the gentleman from Ohio [Mr. OXLEY]; and the gentleman from Virginia [Mr. PICKETT], who is currently the vice chairman and will be the chairman next year.

I would also tell my colleagues that two distinguished members of the other body are also active in similar kinds of efforts.

The resolution recognizes the value of EXPO 2000 and expresses our support for private sector support.

I think in looking at the resolution, one of the most interesting things is the theme of this conference. It is to encourage sustainable development of mankind in the 21st century. I think it is important, therefore, that we participate in this effort to establish a worldwide dialogue on the challenges, goals, and solutions for the sustainable

development of mankind in the 21st century.

Mr. Speaker, I reserve the balance of my time.

Mr. PAYNE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I commend the chairman of the Committee on International Relations, the gentleman from New York [Mr. GILMAN], for bringing this resolution to the floor, and I commend the gentleman from Nebraska [Mr. BEREUTER] for his sponsorship of it.

EXPO 2000 is a World's Fair in Hannover, Germany, to usher in the new millennium. One hundred forty-three countries have already announced their participation. It will take place in the heart of the newly unified free and democratic Europe, as we move forward to the new European Community where the borders will drop and the continent will be united.

This will be a very important forum. This forum will focus the attention of states, international and nongovernmental organizations, and individuals from around the world on the key challenges for a sustainable development of mankind for the next century.

This is an important event, Mr. Speaker, and the United States should fully participate in it. The resolution emphasizes private funding for that participation. Academics and business leaders from the United States will have a great deal to offer to this important discussion on sustainable development of mankind in the 21st century.

Mr. Speaker, I believe the Congress is right to encourage those leaders to actively participate in this important dialogue. This is a good resolution, Mr. Speaker, and I urge my colleagues to join me in supporting it.

Mr. Speaker, I reserve the balance of my time.

Mr. BEREUTER. Mr. Speaker, it is my pleasure to yield 2 minutes to the gentleman from New York [Mr. GILMAN], the distinguished chairman of the Committee on International Relations.

Mr. GILMAN. Mr. Speaker, I want to thank our colleague, the gentleman from Nebraska [Mr. BEREUTER], for taking the initiative to introduce this resolution calling our attention to the upcoming World Exposition that is going to be held in Hannover, Germany, in the year 2000. Such expositions provide an excellent opportunity for our citizens to showcase the goods and services that have helped contribute to our national greatness.

EXPO 2000 will focus on the theme of sustainable development. While that concept has come to mean many things to different people, this resolution, by highlighting the principles of political freedom, human rights, and the free market, establishes the appropriate framework for the involvement of our Nation.

I believe our Government should strongly encourage our talented academic community and our private sector, the most productive in the world, to actively participate in this trade exposition. The amendment we made in committee made it clear that the Government's role is solely one of encouraging efforts in the private sector to participate, and no government funds would be spent.

□ 1830

Accordingly, I urge our colleagues to fully support this resolution.

Mr. PAYNE. Mr. Speaker, I yield 2 minutes to the gentleman from West Virginia [Mr. WISE].

Mr. WISE. Mr. Speaker, I thank the gentleman for yielding me this time.

I rise in strong support of this resolution and thank the committee for bringing it to the floor. As a former chair of the Congressional Study Group on Germany, I can tell my colleagues that when we visited Germany just two years ago, I know that one of the first questions I asked was how is the United States participating in Hannover 2000, and what is the United States role going to be? If we are a world power and we are an economic power, then we have to be fully involved in these significant economic events.

Let me also urge each Member to go back and talk to your State Department of Development or Commerce, or whatever it is, to find out the balance of trade with Germany and the European nations and they will find out that one of the fastest growing areas, both in investment and in exports that is selling United States goods to another nation is in Germany. So, once again, this is an excellent opportunity, as the people from both sides of the aisle have pointed out, to showcase our products to the world, not just Germany where it is being held, of course, but to the world.

So if I had my way, I would actually have us participating more than we probably are in terms of taxpayers possibly being involved as well, but the important thing is that the private sector fully be involved, that we send a message that the United States is fully committed, and that we encourage the fullest amount of U.S. participation.

Mr. BEREUTER. Mr. Speaker, I thank the gentleman from West Virginia for that outstanding statement.

It is now my pleasure to yield such time as he may consume to the distinguished gentleman from Ohio [Mr. OXLEY], who I consider to be, along with myself, a primary sponsor of this legislation. As I mentioned earlier in the debate, he is chairman of the German-American Study Group.

Mr. OXLEY. Mr. Speaker, before I begin my remarks, let me thank the gentleman from Nebraska [Mr. BEREUTER] for bringing this Expo 2000 resolu-

tion to the floor today and for his leadership in the Committee on International Relations on these important issues.

As the gentleman from Nebraska indicated, I am Chairman of the Congressional Study Group on Germany for 1997. I am proud to rise in support of this resolution. The resolution provides an important congressional endorsement of Expo 2000 and, as an original cosponsor, I am hopeful that my colleagues will support this resolution.

The Expo, to be held in Hannover, Germany, will provide an important opportunity for the international community to discuss solutions to problems we will be facing in the 21st century, including global climate change, sources of energy, population growth, and development. Given America's leading position in the development of technology and our problem-solving capabilities, I applaud the President's announcement of American participation in the Expo 2000. This resolution will provide another voice of support to American academic and private sector involvement in the Expo.

Given the dramatic progress this Congress has made in balancing the budget and promoting fiscal responsibility, I think it is important to note that no Federal funds will be used to support American participation in this Expo. While this was the clear intention of the resolution when introduced, I applaud the gentleman from New York [Mr. GILMAN] for introducing an amendment in the committee process that makes this absolutely clear.

Finally, Mr. Speaker, I would like to take this opportunity to express my appreciation and thanks to all of the Bundestag colleagues I have gotten to know over the past year. I believe that German-American relations provide an important cornerstone of stability in Europe. American participation in Expo 2000 will further this relationship, and I urge my colleagues to support House Concurrent Resolution 139.

Mr. PAYNE. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia [Mr. PICKETT].

Mr. PICKETT. Mr. Speaker, I thank the gentleman for yielding me this time. I also want to thank the gentleman from Nebraska [Mr. BEREUTER] for sponsoring this resolution.

It is very important that we participate in this worldwide event. Just recently we have seen the effect of what happens in our own country when economic conditions change in Asia, and we have also heard a great deal recently about global warming and what our country should do in the world environment as far as global warming is concerned.

It is very appropriate that we encourage through our government the academic community and the private sector to participate in Expo 2000. This is a very eloquent and far-reaching event

that is going to be held in Hannover, Germany in the year 2000 for worldwide dialogue on the challenges, goals and solutions for the sustainable development of mankind in the 21st century. This fits in with our economic objectives, it fits in with our environmental objectives, and it fits in with our commitment to the world community, and I urge everyone to support this resolution.

Mr. PAYNE. Mr. Speaker, I yield back the balance of my time.

Mr. BEREUTER. Mr. Speaker, I strongly urge my colleagues to support this resolution, to support Expo 2000 in Hannover, Germany.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. PETRI). The question is on the motion offered by the gentleman from Nebraska [Mr. Bereuter] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 139.

The question was taken.

Mr. BEREUTER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

#### FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 830) "An Act To amend the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act to improve the regulation of food, drugs, devices, and biological products, and for other purposes."

#### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debate has concluded on all motions to suspend the rules in this series.

Pursuant to clause 5 of rule 1, the Chair will now put the question on H.R. 2232, by the yeas and nays; H.R. 1129, by the yeas and nays; House Concurrent Resolution 22, by the yeas and nays; and House Concurrent Resolution 139, by the yeas and nays.

#### RADIO FREE ASIA ACT OF 1997

The SPEAKER pro tempore. The pending business is the question of the passage of the bill, H.R. 2232, on which further proceedings were postponed earlier today.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the passage of the bill on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 401, nays 21, not voting 11, as follows:

[Roll No. 623]  
YEAS—401

Abercrombie	DeGette	Hooley
Ackerman	Delahunt	Horn
Aderholt	DeLauro	Hostettler
Allen	DeLay	Houghton
Andrews	Dellums	Hoyer
Archer	Deutsch	Hulshof
Armey	Diaz-Balart	Hunter
Bachus	Dickey	Hutchinson
Baesler	Dicks	Hyde
Baker	Dingell	Inglis
Baldacci	Dixon	Istook
Ballenger	Doggett	Jackson (IL)
Barcia	Dooley	Jackson-Lee
Barr	Doolittle	(TX)
Barrett (NE)	Doyle	Jefferson
Barrett (WI)	Dreier	Jenkins
Bartlett	Dunn	John
Barton	Edwards	Johnson (CT)
Bass	Ehlers	Johnson (WI)
Bateman	Ehrlich	Johnson, E. B.
Becerra	Emerson	Jones
Bentsen	Engel	Kanjorski
Bereuter	English	Kaptur
Berman	Ensign	Kasich
Berry	Eshoo	Kelly
Bilbray	Etheridge	Kennedy (MA)
Billrakis	Evans	Kennedy (RI)
Bishop	Everett	Kennelly
Blagojevich	Ewing	Kildee
Billey	Farr	Kilpatrick
Blumenauer	Fawell	Kim
Blunt	Fazio	Kind (WI)
Boehlert	Filner	King (NY)
Boehner	Flake	Kingston
Bonior	Foglietta	Klecza
Bono	Foley	Klink
Borski	Forbes	Knollenberg
Boswell	Ford	Kolbe
Boucher	Fossella	Kucinich
Boyd	Fowler	LaFalce
Brady	Fox	LaHood
Brown (CA)	Frank (MA)	Lampson
Brown (FL)	Franks (NJ)	Lantos
Brown (OH)	Frelinghuysen	Largent
Bryant	Frost	LaTham
Bunning	Furse	LaTourette
Burr	Gallegly	Lazio
Burton	Ganske	Leach
Buyer	Gejdenson	Levin
Callahan	Gekas	Lewis (CA)
Calvert	Gephardt	Lewis (GA)
Camp	Gibbons	Lewis (KY)
Campbell	Gilchrest	Linder
Canady	Gilman	Lipinski
Cannon	Goode	Livingston
Cardin	Goodlatte	LoBlondo
Carson	Goodling	Lofgren
Castle	Gordon	Lowe
Chambliss	Goss	Lucas
Chenoweth	Graham	Luther
Christensen	Granger	Maloney (CT)
Clayton	Green	Maloney (NY)
Clement	Greenwood	Manton
Clyburn	Gutierrez	Manzullo
Coble	Gutknecht	Markey
Coburn	Hall (OH)	Martinez
Collins	Hall (TX)	Mascara
Combest	Hamilton	Matsui
Condit	Hansen	McCarthy (MO)
Conyers	Harman	McCarthy (NY)
Cook	Hastert	McCollum
Cooksey	Hastings (FL)	McCrery
Costello	Hastings (WA)	McDade
Cox	Hayworth	McGovern
Coyne	Hefley	McHale
Cramer	Hefner	McHugh
Crane	Herger	McInnis
Crapo	Hill	McIntosh
Cummings	Hilleary	McIntyre
Cunningham	Hilliard	McKeon
Danner	Hinchev	McKinney
Davis (FL)	Hinojosa	McNulty
Davis (IL)	Hobson	Meehan
Davis (VA)	Hoekstra	Meek
Deal	Holden	Menendez

Metcalf	Rahall	Spratt
Mica	Ramstad	Stabenow
Millender	Redmond	Stark
McDonald	Regula	Stearns
Miller (CA)	Reyes	Stenholm
Miller (FL)	Riggs	Strickland
Minge	Rivers	Stump
Mink	Rodriguez	Stupak
Moakley	Roemer	Sununu
Moran (KS)	Rogan	Talent
Moran (VA)	Rogers	Tanner
Morella	Rohrabacher	Tauscher
Murtha	Ros-Lehtinen	Tauzin
Myrick	Rothman	Taylor (MS)
Nadler	Roybal-Allard	Thomas
Neal	Royce	Thompson
Nethercutt	Rush	Thornberry
Ney	Ryun	Thune
Northup	Sabo	Thurman
Norwood	Salmon	Tiahrt
Nussle	Sanchez	Tierney
Oberstar	Sandlin	Torres
Oliver	Sawyer	Towns
Ortiz	Saxton	Trafficant
Owens	Scarborough	Turner
Oxley	Schaefer, Dan	Upton
Packard	Schaffer, Bob	Vento
Pallone	Schumer	Visclosky
Pappas	Scott	Walsh
Parker	Sessions	Wamp
Pascarell	Shadegg	Waters
Pastor	Shaw	Watkins
Paxon	Shays	Watts (OK)
Payne	Sherman	Waxman
Pease	Shimkus	Weldon (FL)
Pelosi	Sisisky	Weldon (PA)
Peterson (MN)	Skaggs	Weller
Peterson (PA)	Skeen	Wexler
Petri	Skelton	Weygand
Pickering	Smith (MI)	White
Pitts	Smith (NJ)	Whitfield
Pombo	Smith (OR)	Wicker
Pomeroy	Smith (TX)	Wise
Porter	Smith, Adam	Wolf
Portman	Smith, Linda	Woolsey
Poshard	Snowbarger	Wynn
Price (NC)	Snyder	Young (AK)
Pryce (OH)	Solomon	Young (FL)
Quinn	Souder	
Radanovich	Spence	

NAYS—21

Bonilla	Neumann	Sensenbrenner
Chabot	Obey	Serrano
Clay	Paul	Shuster
DeFazio	Pickett	Slaughter
Duncan	Rangel	Stokes
Fattah	Sanders	Velazquez
Mollohan	Sanford	Watt (NC)

NOT VOTING—11

Cubin	Klug	Schiff
Gillmor	McDermott	Taylor (NC)
Gonzalez	Riley	Yates
Johnson, Sam	Roukema	

□ 1859

Mr. SERRANO and Mr. FATTAH changed their vote from "yea" to "nay."

Messrs. JOHN, YOUNG of Alaska, MILLER of California, and DINGELL changed their vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1900

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. PETRI). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within

which a vote by electronic device may be taken on each additional motion to suspend the rules on which the Chair has postponed further proceedings.

MICROCREDIT FOR SELF-RELIANCE ACT OF 1997

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 1129, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. GILMAN] that the House suspend the rules and pass the bill, H.R. 1129, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 393, nays 21, not voting 19, as follows:

[Roll No. 624]  
YEAS—393

Abercrombie	Condit	Frelinghuysen
Ackerman	Conyers	Frost
Aderholt	Cook	Furse
Allen	Cooksey	Gallegly
Andrews	Costello	Ganske
Archer	Cox	Gejdenson
Armey	Coyne	Gekas
Bachus	Cramer	Gephardt
Baesler	Crane	Gibbons
Baker	Crapo	Gilchrest
Baldacci	Cummings	Gilman
Ballenger	Cunningham	Goodlatte
Barcia	Danner	Goodling
Barrett (NE)	Davis (FL)	Gordon
Barrett (WI)	Davis (IL)	Goss
Bartlett	Davis (VA)	Graham
Bass	DeFazio	Granger
Bateman	DeGette	Green
Becerra	Delahunt	Greenwood
Bentsen	DeLauro	Gutierrez
Bereuter	DeLay	Gutknecht
Berman	Dellums	Hall (OH)
Berry	Deutsch	Hall (TX)
Bilbray	Diaz-Balart	Hamilton
Billrakis	Dickey	Hansen
Bishop	Dicks	Harman
Blagojevich	Dingell	Hastert
Billey	Dixon	Hastings (FL)
Blumenauer	Doggett	Hastings (WA)
Blunt	Dooley	Hayworth
Boehlert	Doolittle	Hefner
Boehner	Doyle	Herger
Borski	Dreier	Hilleary
Boswell	Duncan	Hilliard
Boucher	Dunn	Hinchev
Brady	Edwards	Hinojosa
Brown (CA)	Ehlers	Hobson
Brown (FL)	Ehrlich	Hoekstra
Bryant	Emerson	Holden
Bunning	Engel	Hooley
Burr	English	Horn
Burton	Ensign	Hostettler
Buyer	Eshoo	Houghton
Callahan	Etheridge	Hoyer
Calvert	Evans	Hulshof
Camp	Everett	Hunter
Campbell	Ewing	Hutchinson
Canady	Farr	Hyde
Cannon	Fattah	Inglis
Cardin	Fawell	Istook
Carson	Fazio	Jackson (IL)
Castle	Filner	Jackson-Lee
Chabot	Flake	(TX)
Chambliss	Foglietta	Jefferson
Christensen	Foley	John
Clay	Forbes	Johnson (CT)
Clayton	Ford	Johnson (WI)
Clement	Fossella	Johnson, E. B.
Clyburn	Fowler	Johnson, Sam
Coburn	Fox	Jones
Combest	Frank (MA)	Kanjorski
	Franks (NJ)	Kaptur

Kasich	Moran (KS)	Scott
Kelly	Moran (VA)	Sensenbrenner
Kennedy (MA)	Morella	Serrano
Kennelly	Murtha	Shaw
Kildee	Myrick	Shays
Kilpatrick	Nadler	Sherman
Kim	Neal	Shimkus
Kind (WI)	Nethercutt	Shuster
King (NY)	Neumann	Sisisky
Kingston	Ney	Skaggs
Klecza	Northup	Skeen
Klink	Norwood	Skelton
Knollenberg	Nussle	Slaughter
Kolbe	Oberstar	Smith (MI)
Kucinich	Obey	Smith (NJ)
LaFalce	Olver	Smith (OR)
LaHood	Ortiz	Smith (TX)
Lampson	Owens	Smith, Adam
Lantos	Packard	Smith, Linda
Largent	Pallone	Snowbarger
Latham	Pappas	Snyder
LaTourette	Parker	Solomon
Lazio	Pascrell	Souder
Leach	Pastor	Spratt
Levin	Paxon	Stabenow
Lewis (CA)	Payne	Stark
Lewis (GA)	Pease	Stenholm
Lewis (KY)	Pelosi	Stokes
Linder	Peterson (MN)	Strickland
Lipinski	Peterson (PA)	Stupak
Livingston	Petri	Sununu
LoBiondo	Pickett	Talent
Lofgren	Pitts	Tanner
Lowey	Pomeroy	Tauscher
Lucas	Porter	Tauzin
Luther	Portman	Thomas
Maloney (CT)	Poshard	Thompson
Maloney (NY)	Price (NC)	Thornberry
Manton	Pryce (OH)	Thune
Manzullo	Quinn	Thurman
Markey	Radanovich	Tiahrt
Martinez	Rahall	Tierney
Mascara	Ramstad	Torres
Matsui	Rangel	Turner
McCarthy (MO)	Redmond	Upton
McCarthy (NY)	Regula	Velazquez
McCollum	Reyes	Vento
McCrery	Riggs	Visclosky
McDade	Rivers	Walsh
McGovern	Rodriguez	Wamp
McHale	Roemer	Waters
McHugh	Rogan	Watkins
McInnis	Rogers	Watt (NC)
McIntosh	Rohrabacher	Watts (OK)
McIntyre	Ros-Lehtinen	Waxman
McKeon	Rothman	Weldon (FL)
McKinney	Roybal-Allard	Weldon (PA)
McNulty	Royce	Weller
Meehan	Rush	Wexler
Meek	Ryun	Weygand
Menendez	Sabo	White
Mica	Sanchez	Whitfield
Millender-	Sanders	Wicker
McDonald	Sandlin	Wise
Miller (CA)	Sanford	Wolf
Miller (FL)	Sawyer	Woolsey
Minge	Saxton	Wynn
Mink	Schaefer, Dan	Young (AK)
Moakley	Schaffer, Bob	
Mollohan	Schumer	

NAYS—21

Barr	Goode	Shadegg
Barton	Hefley	Spence
Bonilla	Hill	Stearns
Chenoweth	Paul	Stump
Coble	Pombo	Taylor (MS)
Collins	Scarborough	Trafcant
Deal	Sessions	Young (FL)

NOT VOTING—19

Bono	Kennedy (RI)	Roukema
Boyd	Klug	Salmon
Brown (OH)	McDermott	Schiff
Cubin	Metcalf	Taylor (NC)
Gillmor	Oxley	Yates
Gonzalez	Pickering	
Jenkins	Riley	

□ 1908

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. BONO. Mr. Speaker, on rollcall No. 624, on a motion to suspend the Rules and pass H.R. 1129, the Microcredit for Self-Reliance Act, I am not recorded. Had I been present, I would have voted "aye."

PERSONAL EXPLANATION

Mr. BOYD. Mr. Speaker, earlier in the evening, I was unavoidably detained and missed rollcall No. 624, which was H.R. 1129.

Mr. Speaker, had I voted on that, I would have voted yes.

EXPRESSING SENSE OF CONGRESS WITH RESPECT TO GERMAN GOVERNMENT'S DISCRIMINATION AGAINST MEMBERS OF MINORITY RELIGIOUS GROUPS

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the concurrent resolution, House Concurrent Resolution 22, as amended.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. GILMAN] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 22, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 101, nays 318, answered "present" 4, not voting 10, as follows:

[Roll No. 625]

YEAS—101

Abercrombie	Fattah	McIntosh
Andrews	Flake	McKinney
Becerra	Foley	Meek
Bilbray	Ford	Menendez
Billrakis	Fox	Metcalf
Bishop	Frost	Millender-
Bonior	Gejdenson	McDonald
Bono	Gephardt	Ney
Brown (FL)	Gilman	Owens
Calvert	Gutierrez	Pallone
Carson	Gutknecht	Pappas
Chabot	Hall (OH)	Pastor
Christensen	Hastings (FL)	Payne
Clay	Hilliard	Portman
Clayton	Horn	Pryce (OH)
Clyburn	Hulshof	Roemer
Conyers	Hutchinson	Rogan
Cox	Jackson (IL)	Rohrabacher
Cummings	Jackson-Lee	Ros-Lehtinen
Cunningham	(TX)	Rothman
Davis (IL)	Johnson (CT)	Royce
Davis (VA)	Johnson, E. B.	Rush
DeGette	Kelly	Salmon
Delahunt	Kennelly	Sanford
DeLauro	Kildee	Scarborough
Dellums	Kilpatrick	Schaffer, Bob
Deutsch	Kim	Sherman
Diaz-Balart	LaTourette	Slaughter
Doolittle	Lewis (CA)	Stokes
Dreier	Maloney (CT)	Thompson
Engel	Maloney (NY)	Tiahrt
Ensign	Martinez	Torres

Towns	Weller	Wynn
Waters	Wexler	
Watt (NC)	Wicker	

NAYS—318

Ackerman	Forbes	McCrery
Aderholt	Fossella	McDade
Allen	Fowler	McGovern
Archer	Frank (MA)	McHale
Armey	Franks (NJ)	McHugh
Bachus	Frelinghuysen	McInnis
Baesler	Furse	McIntyre
Baker	Gallegly	McKeon
Baldaccl	Ganske	McNulty
Ballenger	Gekas	Meehan
Barcla	Gibbons	Mica
Barr	Gilchrist	Miller (CA)
Barrett (NE)	Goode	Miller (FL)
Barrett (WI)	Goodlatte	Minge
Bartlett	Goodling	Mink
Barton	Gordon	Moakley
Bass	Goss	Mollohan
Bateman	Graham	Moran (KS)
Bentsen	Granger	Moran (VA)
Bereuter	Green	Moralla
Berman	Greenwood	Murtha
Berry	Hall (TX)	Myrick
Blagojevich	Hamilton	Nadler
Bliley	Hansen	Neal
Blumenauer	Harman	Nethercutt
Blunt	Hastert	Neumann
Boehlert	Hastings (WA)	Northup
Boehner	Hayworth	Norwood
Bonilla	Hefley	Nussle
Borski	Hefner	Oberstar
Boswell	Herger	Obey
Boucher	Hill	Olver
Boyd	Hilleary	Ortiz
Brady	Hinches	Oxley
Brown (CA)	Hinojosa	Packard
Brown (OH)	Hobson	Parker
Bryant	Hoekstra	Pascrell
Bunning	Holden	Paul
Burr	Hooley	Paxon
Burton	Hostettler	Pease
Buyer	Houghton	Pelosi
Callahan	Hunter	Peterson (MN)
Camp	Hyde	Peterson (PA)
Campbell	Inglis	Petri
Canady	Istook	Pickett
Cannon	Jefferson	Pitts
Castle	Jenkins	Pombo
Chambliss	John	Pomeroy
Chenoweth	Johnson (WI)	Porter
Clement	Johnson, Sam	Poshard
Coble	Jones	Price (NC)
Coburn	Kanjorski	Quinn
Collins	Kaptur	Radanovich
Combest	Kasich	Rahall
Condit	Kennedy (MA)	Ramstad
Cook	Kennedy (RI)	Rangel
Cooksey	Kind (WI)	Redmond
Costello	King (NY)	Regula
Coyne	Kingston	Reyes
Cramer	Klecza	Riggs
Crane	Klink	Rivers
Crapo	Knollenberg	Rodriguez
Danner	Kolbe	Rogers
Davis (FL)	LaFalce	Roybal-Allard
Deal	LaHood	Ryun
DeFazio	Lampson	Sabo
DeLay	Lantos	Sanchez
Dickey	Largent	Sanders
Dicks	Latham	Sandlin
Dingell	Lazio	Sawyer
Dixon	Leach	Saxton
Doggett	Levin	Schaefer, Dan
Dooley	Lewis (GA)	Schumer
Doyle	Lewis (KY)	Scott
Duncan	Linder	Sensenbrenner
Dunn	Lipinski	Serrano
Edwards	Livingston	Sessions
Ehlers	LoBiondo	Shadegg
Ehrlich	Lofgren	Shaw
Emerson	Lowey	Shays
Eshoo	Lucas	Shimkus
Etheridge	Luther	Shuster
Evans	Manton	Sisisky
Everett	Manzullo	Skaggs
Ewing	Markey	Keen
Farr	Mascara	Skelton
Fawell	Matsui	Smith (MI)
Fazio	McCarthy (MO)	Smith (NJ)
Filner	McCarthy (NY)	Smith (OR)
Foglietta	McCollum	Smith (TX)

Smith, Adam  
Smith, Linda  
Snowbarger  
Snyder  
Solomon  
Souder  
Spence  
Spratt  
Stabenow  
Stark  
Stearns  
Stenholm  
Strickland  
Stump  
Stupak  
Sununu

Talent  
Tanner  
Tauscher  
Tauzin  
Taylor (MS)  
Taylor (NC)  
Thomas  
Thornberry  
Thune  
Thurman  
Tierney  
Traficant  
Turner  
Upton  
Velázquez  
Vento

Visclosky  
Walsh  
Wamp  
Watkins  
Watts (OK)  
Waxman  
Weldon (FL)  
Weldon (PA)  
Weygand  
White  
Whitfield  
Wise  
Wolf  
Woolsey  
Young (AK)  
Young (FL)

Boswell  
Boucher  
Boyd  
Brady  
Brown (CA)  
Brown (FL)  
Brown (OH)  
Bryant  
Bunning  
Burr  
Burton  
Buyer  
Callahan  
Calvert  
Camp  
Campbell  
Canady  
Cannon  
Cardin  
Carson  
Castle  
Chabot  
Chambliss  
Chenoweth  
Christensen  
Clay  
Clayton  
Clement  
Clyburn  
Coble  
Coburn  
Collins  
Combest  
Condit  
Conyers  
Cook  
Cooksey  
Costello  
Cox  
Coyne  
Cramer  
Crane  
Crapo  
Cummings  
Cunningham  
Danner  
Davis (FL)  
Davis (IL)  
Davis (VA)  
Deal  
DeFazio  
DeGette  
Delahunt  
DeLauro  
Dellums  
Deutsch  
Diaz-Balart  
Dickey  
Dicks  
Dingell  
Dixon  
Doggett  
Dooley  
Doolittle  
Doyle  
Dreier  
Duncan  
Dunn  
Ehlers  
Ehrlich  
Engel  
English  
Ensign  
Eshoo  
Etheridge  
Evans  
Everett  
Ewing  
Farr  
Fattah  
Fawell  
Fazio  
Flner  
Flake  
Foglietta  
Foley  
Forbes  
Ford  
Fossella  
Fowler  
Fox  
Frank (MA)  
Franks (NJ)  
Frelinghuysen  
Frost  
Furse

Roybal-Allard  
Royce  
Rush  
Ryun  
Sabo  
Salmon  
Sanchez  
Sanders  
Sandlin  
Sanford  
Sawyer  
Saxton  
Scarborough  
Schaefer, Dan  
Schaffer, Bob  
Schumer  
Scott  
Sensenbrenner  
Serrano  
Sessions  
Shadegg  
Shaw  
Shays  
Sherman  
Shimkus  
Shuster  
Siskisky  
Skaggs  
Skeen  
Skelton  
Slaughter

Smith (MI)  
Smith (NJ)  
Smith (OR)  
Smith (TX)  
Smith, Adam  
Snowbarger  
Snyder  
Solomon  
Souder  
Spence  
Spratt  
Stabenow  
Stark  
Stearns  
Stenholm  
Stokes  
Strickland  
Stump  
Stupak  
Sununu  
Talent  
Tanner  
Tauscher  
Tauzin  
Taylor (MS)  
Taylor (NC)  
Thomas  
Thompson  
Thornberry  
Thune  
Thurman

Tiahrt  
Tierney  
Torres  
Towns  
Traficant  
Turner  
Upton  
Velázquez  
Vento  
Visclosky  
Walsh  
Wamp  
Waters  
Watkins  
Watt (NC)  
Watts (OK)  
Waxman  
Weldon (FL)  
Weldon (PA)  
Weller  
Wexler  
Weygand  
White  
Wicker  
Wise  
Wolf  
Woolsey  
Wynn  
Young (AK)  
Young (FL)

ANSWERED "PRESENT"—4

Cardin  
English

Hoyer  
Kucinich

NOT VOTING—10

Cubin  
Gillmor  
Gonzalez  
Klug

McDermott  
Pickering  
Riley  
Roukema

Schiff  
Yates

□ 1918

Mr. HERGER changed his vote from "yea" to "nay."

Mrs. MEEK of Florida, Mr. CALVERT, and Mrs. KELLY changed their vote from "nay" to "yea."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. PICKERING. Mr. Speaker, on rollcall Nos. 624 and 625, I was unavoidably detained. Had I been present, I would have voted "yes" on rollcall 624 and "no" on rollcall 625.

EXPO 2000

The SPEAKER pro tempore (Mr. PETRI). The pending business is the question of suspending the rules and agreeing to the concurrent resolution, House Concurrent Resolution 139, as amended.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Nebraska [Mr. BE-REUTER] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 139, as amended, on which the yeas and nays are ordered.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 415, nays 2, not voting 16, as follows:

[Roll No. 626]

YEAS—415

Abercrombie  
Ackerman  
Aderholt  
Allen  
Andrews  
Archer  
Bachus  
Baesler  
Baker  
Baldacci  
Ballenger  
Barcia

Barrett (NE)  
Barrett (WI)  
Bartlett  
Barton  
Bass  
Bateman  
Becerra  
Bentsen  
Bereuter  
Berman  
Berry  
Bilbray

Billrakis  
Bishop  
Blagojevich  
Bliley  
Blumenauer  
Blunt  
Boehlert  
Boehner  
Bonilla  
Bontior  
Bono  
Borski

Boswell  
Boucher  
Boyd  
Brady  
Brown (CA)  
Brown (FL)  
Brown (OH)  
Bryant  
Bunning  
Burr  
Burton  
Buyer  
Callahan  
Calvert  
Camp  
Campbell  
Canady  
Cannon  
Cardin  
Carson  
Castle  
Chabot  
Chambliss  
Chenoweth  
Christensen  
Clay  
Clayton  
Clement  
Clyburn  
Coble  
Coburn  
Collins  
Combest  
Condit  
Conyers  
Cook  
Cooksey  
Costello  
Cox  
Coyne  
Cramer  
Crane  
Crapo  
Cummings  
Cunningham  
Danner  
Davis (FL)  
Davis (IL)  
Davis (VA)  
Deal  
DeFazio  
DeGette  
Delahunt  
DeLauro  
Dellums  
Deutsch  
Diaz-Balart  
Dickey  
Dicks  
Dingell  
Dixon  
Doggett  
Dooley  
Doolittle  
Doyle  
Dreier  
Duncan  
Dunn  
Ehlers  
Ehrlich  
Engel  
English  
Ensign  
Eshoo  
Etheridge  
Evans  
Everett  
Ewing  
Farr  
Fattah  
Fawell  
Fazio  
Flner  
Flake  
Foglietta  
Foley  
Forbes  
Ford  
Fossella  
Fowler  
Fox  
Frank (MA)  
Franks (NJ)  
Frelinghuysen  
Frost  
Furse

Lucas  
Luther  
Maloney (CT)  
Maloney (NY)  
Manton  
Manzullo  
Markey  
Martinez  
Mascara  
Matsui  
McCarthy (MO)  
McCarthy (NY)  
McCollum  
McCrery  
McDade  
McGovern  
McHale  
McHugh  
McInnis  
McIntosh  
McIntyre  
McKeon  
McKinney  
McNulty  
Meehan  
Meek  
Menendez  
Metcalf  
Mica  
Millender-  
McDonald  
Miller (CA)  
Miller (FL)  
Minge  
Mink  
Moakley  
Mollohan  
Moran (KS)  
Moran (VA)  
Morella  
Murtha  
Myrick  
Nadler  
Neal  
Nethercutt  
Neumann  
Ney  
Northup  
Norwood  
Nussle  
Oberstar  
Obey  
Oliver  
Ortiz  
Owens  
Oxley  
Packard  
Pallone  
Pappas  
Parker  
Pascrell  
Pastor  
Paul  
Paxon  
Payne  
Pease  
Pelosi  
Peterson (MN)  
Peterson (PA)  
Petri  
Pickering  
Pickett  
Pitts  
Pombo  
Pomeroy  
Porter  
Poshard  
Price (NC)  
Pryce (OH)  
Quinn  
Radanovich  
Rahall  
Ramstad  
Rangel  
Redmond  
Regula  
Reyes  
Riggs  
Rivers  
Rodriguez  
Roemer  
Rogan  
Rogers  
Rohrabacher  
Ros-Lehtinen  
Rothman

NAYS—2

Barr  
Jackson-Lee (TX)

NOT VOTING—16

Armey  
Cubin  
DeLay  
Edwards  
Emerson  
Gillmor

Gonzalez  
Klug  
McDermott  
Portman  
Riley  
Roukema

Schiff  
Smith, Linda  
Whitfield  
Yates

□ 1926

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

The title of the concurrent resolution was amended so as to read: "A concurrent resolution expressing the sense of Congress that the United States should fully participate in EXPO 2000 in the year 2000, in Hannover, Germany, and should encourage the academic community and the private sector in the United States to support this worthwhile undertaking."

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mrs. LINDA SMITH of Washington. Mr. Speaker, on rollcall No. 626, I was unavoidably detained. Had I been present, I would have voted "yes."

PERSONAL EXPLANATION

Mr. PORTMAN. Mr. Speaker, I missed the vote on rollcall No. 626, the sense of Congress regarding U.S. participation in EXPO 2000 in Hannover, Germany. Had I been present, I would have voted "yes."

□ 1930

FURTHER CONTINUING  
APPROPRIATIONS, 1998

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations be discharged from further consideration of the joint resolution (H.J. Res. 104) making further continuing appropriations for the fiscal year 1998, and for other purposes, and that the House immediately consider and pass the joint resolution.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore (Mr. LATHAM). Is there objection to the request of the gentleman from Louisiana?

Mr. OBEY. Reserving the right to object, Mr. Speaker, under my reservation it is my understanding that the gentleman is attempting to bring to the House a 1-day CR. I would like to ask a number of questions so that all Members might understand where we are at and where we expect to be about 2 days from now.

Could I first inquire if the gentleman could inform Members what the expected schedule is tonight?

Mr. LIVINGSTON. Mr. Speaker will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Louisiana.

Mr. LIVINGSTON. Mr. Speaker, the Majority Leader does not appear to be on the floor, and I am not prepared to address the entire schedule. I do know that it is the intent of the leadership to bring up the fast track some time tonight, and the appropriations bills that remain have to be taken up. Included among them are the Commerce-Justice-State bill, which is being conferenced, as the gentleman knows, simultaneously with the activities on the floor. The District of Columbia bill, which passed the House, is being entertained by the Senate, and the foreign operations bill is pending, having been fully conferenced, and is awaiting the decision to move forward with many issues, among them being the U.N. population planning issue.

Mr. OBEY. Further reserving the right to object, Mr. Speaker, and I really do not want to object, but my leadership on this side of the aisle has asked that we try to elicit some understanding of what the schedule is tonight. Members have a right to know what the expectation is about when fast track is going to be taken up, they have a right to know whether further legislation will be taken up after fast track tonight, and they also have a right to know whether we are intending to be here tomorrow, whether Members will, in fact, be able to get back for Veterans Day or not, whether there are going to be further conferences tonight.

Mr. Speaker, I would ask is there not someone from the leadership on the

gentleman's side of the aisle who can tell us what the story is, because, frankly, I have had two or three Members over here who are indicating they are inclined to object to consideration of the CR without that information.

Mr. LIVINGSTON. Would the gentleman yield further?

Mr. OBEY. Mr. Speaker, I yield to the gentleman from Louisiana.

Mr. LIVINGSTON. Mr. Speaker, I certainly share the gentleman's zeal to end the process and to finish this session of the 105th Congress, and I know that Members have lots of things that they would like to do and simply to return to home.

However, I might add that if the gentleman objects, the fact is that we will not have a continuing resolution to keep the Government in operation after midnight tonight, and certain Government activities will close down.

Mr. OBEY. Mr. Speaker, if I could reclaim my time under the reservation, let me simply say that is not so. The question is not whether we object. The question is whether somebody can take 5 minutes to tell us. I mean, the motion can be renewed at any time, but, frankly, the gentleman from Louisiana and I are totally in the dark about what is happening, I think every other Member here is totally in the dark about what is happening, and I think Members have some right to know what the situation is. And so I would again ask whether anyone from the gentleman's leadership can tell us what the plans are for tonight, for tomorrow and for Veterans Day.

Mr. LIVINGSTON. Would the gentleman yield further?

Mr. OBEY. I yield to the gentleman from Louisiana.

Mr. LIVINGSTON. Mr. Speaker, I am advised and would explain to the gentleman that the intent of the House is to go ahead and continue along a very long list of suspensions, and that eventually we will get to the vote on the fast track legislation. The gentleman knows that that vote is going to be very close, and so I would expect that when people on all sides of the Capitol feel that they have exhausted their opportunity to discuss it with Members, that they will bring it up. But in the meantime we have these suspensions, and I would be happy to read them to the gentleman, but I do not think that is necessary.

But let me point out that all we are attempting to do at this point is to provide for a 24-hour extension so that Government will not close down after midnight tonight. That is a 1-day extension with all of the conditions which were included in the previous continuing resolution which we passed 2 days ago. It is a simple 1-day extension.

I hope, I sincerely hope, that at the conclusion of that 24 hours, we will be able to go home and we will not have

to have any more CRs. But I cannot assure the gentleman of anything at this point.

Mr. OBEY. Again under any reservation let me simply say I, too, hope that we can finish in 24 hours, but, frankly, I do not approach this like I am a permanent president of an optimist club, and it just seems to me that we have massive confusion here.

Let me ask the gentleman, does the gentleman know how many bridges the administration has given away today to try to pick up votes?

Mr. LIVINGSTON. This gentleman does not have sufficient fingers to count.

Ms. KAPTUR. Mr. Speaker, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Ohio.

Ms. KAPTUR. Mr. Speaker, I think today was roads, highways, not bridges today.

Mr. LIVINGSTON. Mr. Speaker, will the gentleman yield further?

Mr. OBEY. I yield to the gentleman from Louisiana.

Mr. LIVINGSTON. Mr. Speaker, I would point out to the gentleman that currently signed into law in the 1998 appropriations cycle is the military construction bill, the legislative branch bill, the Defense bill, the Treasury bill, the energy and water bill, the VA/HUD bill and the Transportation bill.

Cleared for the President, and sitting on his desk and awaiting his signature are the Interior and the Agriculture bill, and just a couple days ago we passed the Labor-Health bill with an overwhelming margin, and we would expect him to sign that.

Remaining are three appropriations bills: foreign operations, Commerce-Justice, and District of Columbia. They are pending in the process, and I fully expect and hope that within the next 24 hours we are going to be able to take up those bills and pass them and send them to the President, and he is going to sign them into law. It is my expectation that if we are so lucky, after this, the expiration of this 24-hour continuing resolution, we would be able to go back and do the things among our constituents that we have planned.

Mr. OBEY. Again under my reservation of objection, Mr. Speaker, let me simply explain to the Members what I understand is happening with respect to one of the appropriation bills.

The State-Justice bill has a number of contentious items. Frankly, right now, although there is language which apparently may meet with the approval of the administration, we have a meeting going on right now with a number of lawyers to try to decipher what that language is and to see whether or not we can work our way to agreement on that. If we can, I would grant that there is the possibility of going to conference tonight without a

lot of problems on the State-Justice bill.

But we still have confusion about the other two bills.

Let me ask, does the gentleman know of any other so-called compromise language which is circulating with respect to Mexico City? There are rumors rampant about different language being floated by the administration, by somebody else. Has the gentleman been given any language that would effect the Mexico City provisions of the foreign operations bill?

Mr. LIVINGSTON. If the gentleman would yield further, the only language that I know about is the language that was sent to the Senate, and I am told that the Senate has some language of their own which they are sending back to us. But beyond those two sets of language, I know of none.

Mr. OBEY. Could the gentleman further tell us, under my reservation of objection, what are the plans for handling the D.C. appropriations bill?

Mr. LIVINGSTON. Mr. Speaker, it was our intent to receive some notification from the Senate in handling the D.C. bill individually; however, it looks as if the Senate is currently acting on a proposal that might join all three bills and send it back to us. We would expect that if that is the case, we would receive it sometime tonight and that we would act on either a joint bill, sometimes known as an omnibus bill, which would include all three appropriations bills, or we would handle each of them individually.

I would tell the gentleman it would be my preference if we can conclude the Commerce-Justice-State, conference, then we can take that up this evening, or tomorrow.

Mr. OBEY. If I can just, under my reservation of objection again, note that I am informed that so far staff has found at least 50 mistakes in the Senate version of the State-Justice-Commerce bill as it was sent over here. I am not saying that by way of criticizing, I am saying that by way of alerting Members to the fact that it is essential that we have enough time to read out those bills at a staff level, and perhaps Members of the leadership who have not served as committee chairs do not sufficiently appreciate the need to make certain that we have these things right before we proceed.

But my concern is that a lot of Members want to know whether they should cancel their Veterans Day plans. If they are going to be back in their districts for Veterans Day, they are going to have to leave here Monday. We are being told that people should expect to be here Monday, and I think, frankly, I doubt very much that a 1-day CR is going to be enough, and I would ask why we have not just proceeded with a CR that is 4 or 5 days so that Members would have some clarity about what is going to happen on Veterans Day.

Mr. LIVINGSTON. Mr. Speaker, the gentleman has explained that he is not a member of the optimist club, and I have to tell the gentleman that I am an eternal optimist and that it is my hope that all of our business can, in fact, be concluded by at least this time tomorrow night and that Members will be back in their districts by Tuesday. But obviously in view of the uncertainty of the bills before us, it is impossible to give the gentleman a guarantee.

Mr. OBEY. Mr. Speaker, I guess under my reservation of objection again, I guess I would simply say that this is not the most organized way to end the session that I have ever seen, and I would simply ask that before any actions are taken with respect to any of the three appropriation bills, that both our leadership and the ranking members on each of those subcommittees be given ample time so that whatever changes might be contemplated by the minority to the greatest extent possible can be cleared with our side so that we do not run into some last-minute blowups.

Mr. Speaker, we are not going to elicit any information.

Mr. LIVINGSTON. Mr. Speaker, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Louisiana.

Mr. LIVINGSTON. I just wanted to assure the gentleman that it is my intention that not only our joint leaderships, but that the gentleman and I and the respective subcommittee chairmen from both the majority and the ranking minority members have full opportunity to review all proposals before they hit the floor and that the staff has adequate time to read it and make sure that mistakes are not made.

The fact is that the committees are working, and especially, I think, the Committee on Appropriations in this instance is working as expeditiously and efficiently as is absolutely possible under rather uncertain conditions, and I am proud of the job we are doing, I am just not able to give the gentleman any guarantees about the ultimate schedule.

Mr. ROGERS. Mr. Speaker, will the gentleman yield?

Mr. OBEY. Again, further reserving the right to object, Mr. Speaker, I yield to the gentleman.

Mr. ROGERS. Mr. Speaker, the gentleman from Wisconsin and the chairman of the committee is correct. Just on the Commerce-State-Justice bill it will take 12 or 13 hours of staff time just to read through, to proofread, that one bill.

□ 1945

So we need a lot of lead time. We have been trying to pre-read the portions that are more or less agreed to. But even in spite of that, it is going to take that long a period of time, just to read on the one bill.

Mr. OBEY. Mr. Speaker, continuing my reservation, let me simply make this point, I think we have terrific staff on the Committee on Appropriations. But as good as they are, they are likely to make some significant mistakes if they are reading out these bills when they have been strung out through night after night with virtually no rest.

It seems to me that if there is not a reasonable expectation that we can finish, that we ought to recognize that so that Members can get some sleep. My observation is that this place usually works better and the Members get along better with each other when their tails are not dragging, and everybody's are, as far as I can see right now, and certainly the staff.

Mr. Speaker, we are not going to get any more information, but what we have been told so far is that the fast-track legislation is going to come up sometime tonight, that we may or may not be moving ahead with other appropriation bills, and, if we do move ahead with them, they may or may not be in an omnibus form, and we do not really have any idea at this point how long it is going to take to read out these bills or to bring them to the Congress in a form which is safe for Members to vote on.

Under those circumstances, I would simply say I am dubious that a one-day CR is going to solve anything.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

The text of House Joint Resolution 104 is as follows:

H.J. RES. 104

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled.* That section 106(3) of Public Law 105-46 is further amended by striking "November 9, 1997" and inserting in lieu thereof "November 10, 1997", and each provision amended by sections 122 and 123 of such public law shall be applied as if "November 10, 1997" was substituted for "October 23, 1997".

The SPEAKER pro tempore (Mr. PETRI). Without objection, the joint resolution is considered and passed.

There was no objection.

A motion to reconsider was laid on the table.

#### CONFERENCE REPORT ON S. 830, FOOD AND DRUG ADMINISTRATION MODERNIZATION ACT OF 1997

Mr. BLILEY. Mr. Speaker, I move to suspend the rules and agree to the conference report on the Senate bill (S. 830) to amend the Federal Food, Drug and Cosmetic Act and the Public Health Service Act to improve the regulation of food, drugs, devices, and biological products, and for other purposes.

(For conference report and statement, see prior proceedings of the House of today.)

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia [Mr. BLILEY] and the gentleman from Michigan [Mr. DINGELL] each will control 20 minutes.

The Chair recognizes the gentleman from Virginia [Mr. BLILEY].

GENERAL LEAVE

Mr. BLILEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous remarks on the conference report on S. 830.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. BLILEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today we stand on the verge of medical advances that will revolutionize the quality of health care in America, and today we make the promise of better medicines and treatments a reality for millions of Americans. The bipartisan conference agreement reached earlier this afternoon to modernize the FDA is a victory for American patients.

After almost 3 years of work by the Committee on Commerce, we have delivered a piece of legislation that will do more to help patients than any legislation passed in decades. When we first discussed the need to modernize the FDA in 1995, we knew that outdated rules were slowing down the vital work of the agency and that patients were the ones who were suffering. Vital new medicines and medical devices were not getting to the patients who needed them quickly enough.

As I said back then, it is not right that American patients are having to go overseas to get the care they need to stay alive. Congress had to act. Our FDA reform team conducted the most extensive legislative outreach in recent memory. Literally thousands of hours were devoted to reaching out to all corners of the country. Our goal then was to achieve a balanced legislation, legislation that the President would be eager to sign.

Today we have fulfilled our objectives. This agreement will result in a better and more efficient FDA. It will enhance the safety of the medicines we take and the medical devices we use and the foods we feed our children. Medicines will be approved faster, medical devices will get to people sooner, and those with life-threatening diseases will have access to the best experimental new drugs that science can provide. That is important, because when you are sick, when you are suffering, every minute counts.

Some of my colleagues deserve special praise and thanks. Their work on this issue has been tireless, and the

credit for this legislation belongs to them. The members of our FDA reform team, the chairman of our Subcommittee on Health and Environment, the gentleman from Florida [Mr. BILIRAKIS], along with the gentleman from Pennsylvania [Mr. GREENWOOD], the gentleman from North Carolina [Mr. BURR], the gentleman from Texas [Mr. BARTON], and the gentleman from Kentucky [Mr. WHITFIELD].

I also want to reach across the aisle to thank our friends, the gentlewoman from California [Ms. ESHOO], the gentleman from New York [Mr. TOWNS], and the gentleman from Texas [Mr. HALL], and all our ranking members, the gentleman from Michigan [Mr. DINGELL] and the gentleman from Ohio [Mr. BROWN], for their invaluable contributions to this effort. And to our colleagues over in the Senate, Senators JEFFORDS and KENNEDY.

I also want to thank my committee staff, Howard Cohen, Eric Berger, and Roger Currie, as well as the personal staffs of the FDA reform team, Patti DeLoache with the gentleman from Florida [Mr. BILIRAKIS], Mora Guarducci with the gentleman from Pennsylvania [Mr. GREENWOOD], Alyson Neuman with the gentleman from North Carolina [Mr. BURR], Beth Hall with the gentleman from Texas [Mr. BARTON], Pete Bizzozero with the gentleman from Wisconsin [Mr. KLUG], and Tim Taylor with the gentleman from Kentucky [Mr. WHITFIELD].

I would also like to extend my gratitude to the able and hard-working legislative counsels who helped craft this measure: David Meade, Pete Goodloe, and Liz Aldridge.

Finally, I would like to express my sincere gratitude for the hard work and dedication of minority counsel Kay Holcombe. She is leaving us at the end of this session, and, believe me, she will be greatly missed, not just by the gentleman from Michigan [Mr. DINGELL] but by this chairman as well.

They should all be proud of a job very well done. The American people thank them, and so do I.

Mr. Speaker, I reserve the balance of my time.

Mr. DINGELL. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, from the beginning, our goal in reforming Food and Drug has been to benefit patients and people. We can talk about a lot of things, but when we get right down to it, the question is keeping people safe, seeing to it that foods, drugs, cosmetics, devices and other things which are regulated by Food and Drug which are absolutely essential to the life of people are safe and that they come quickly to market.

The bill does a number of things. First, it reauthorizes the Prescription Drug User Fee Act. This is a program that has given FDA the resources needed to approve drugs in a way that none of us would have anticipated 10 years

ago. Today, new drugs are reviewed by FDA in a year or less. Drugs essential for people with serious and life-threatening illnesses are reviewed in 6 months or less. This is enormous progress.

The bill authorizes a clinical trials data bank that would be established through the National Library of Medicine at NIH. Patients with serious illnesses will be able to get critical information about experimental therapies being tested in clinical trials.

The bill codifies a number of procedures that FDA developed over the years to expand access to experimental drugs and medical devices to people with serious illnesses and emergency situations through so-called expanded access protocols.

Market incentives are included in this bill to encourage companies to produce pediatric studies of drugs, so that the labeling of these products will be useful to pediatricians. Today, most of these drugs prescribed for children have no proper pediatric label. The bill remedies this situation. I expect the FDA will use this new authority carefully to avoid detrimental impact on the availability of generic drugs.

The medical device provisions of the legislation have been the most controversial and difficult. I am pleased that the conference report includes provisions based on a careful consideration of two goals: Expediting the availability of new, sophisticated products; and protecting patients from medical devices that are either unsafe or not effective.

The bill gives the FDA the ability to streamline its evaluation of medical devices, but without compromising its ability to make absolutely sure that the products are safe, that they work the way they are supposed to be, and are labeled properly.

I am also pleased the conference report retains two significant provisions from the House bill. One makes certain FDA will not be forced to approve a product the agency knows the manufacturer cannot make according to good manufacturing practices. The second ensures that FDA can evaluate all aspects of a new medical device, not just the ones that the manufacturer chooses to include in the label.

I am concerned, Mr. Speaker, that while we are busy reforming the Food and Drug Administration, we put a number of burdens on the agency and that the potential to interfere with the review and approval of new products is real. I am also concerned that the speed which is required may have an element of risk for the consuming public for patients and for people involved in health care.

Mr. Speaker, I want to commend and thank my good friend and colleague,

the gentleman from Virginia [Mr. BLILEY], for his excellent work on this important legislation and for his leadership in what has been a truly bipartisan effort.

In addition, the work of the subcommittee chairman, the gentleman from Florida [Mr. BILIRAKIS], was essential to the success of the effort, as were the labors of the gentlewoman from California [Ms. ESHOO], the gentleman from Texas [Mr. BARTON], the gentleman from California [Mr. WAXMAN], the gentleman from Ohio [Mr. BROWN], the gentleman from Pennsylvania [Mr. KLINK], the gentleman from North Carolina [Mr. BURR], the gentleman from Pennsylvania [Mr. GREENWOOD], and the gentleman from Kentucky [Mr. WHITFIELD].

Our Senate colleagues, Senators JEFFORDS, KENNEDY, and COATS worked very hard.

The staff of the committee, Howard Cohen, Eric Berger, Roger Currie, and the staff of the conferees, Kevin Brennan, Paul Kim, Emmett O'Keefe, Pattie DeLoache, Alyson Neuman, Beth Hall, Mora Guarducci, and Tim Taylor were valuable and important in the accomplishments of this legislation, as were the tireless efforts of David Meade and Peter Goodloe of House Legislative Counsel and Elizabeth Aldrich of Senate Legislative Counsel.

I want to refer to the work done by my dear friend and our valuable staff member, Kay Holcombe, who will be leaving us at the end of this year. Simply put, without her labors, we would not have achieved the consensus FDA bill that we have before us today. It took a great deal of effort on her part, her unquestioned integrity, her considerable intelligence, her extensive expertise, and her legislative tenacity to help us get to the point where we are.

The legislation is a fitting capstone to the labors of all who have participated, but especially to Kay's distinguished career in public service and her 4 years with the staff of the Democratic part of the committee. Her retirement is a loss to all.

This is a fine piece of legislation. I urge my colleagues to support it.

Mr. BLILEY. Mr. Speaker, I yield 5 minutes to the gentleman from Florida [Mr. BILIRAKIS], the very able chairman of the Subcommittee on Health and Environment of the Committee on Commerce.

Mr. BILIRAKIS. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I rise, of course, in support of the conference report. As chairman of the subcommittee of jurisdiction, I believe the conference report represents our best effort in many years to improve the health and safety of all Americans.

In short, this comprehensive law will chart a new course in public protection, allowing the Government to ful-

fill its obligation to protect the public health without undue delay, while ensuring that we preserve the economic incentives inherent in our free market system. Although it has taken many months, indeed, many years of hard work, this legislation represents a bipartisan effort to work through our political differences and resolve contentious issues.

Over the last 3 years, Mr. Speaker, the Committee on Commerce and my Subcommittee on Health and Environment in particular have produced a number of landmark bills which have enjoyed support from both sides of the aisle.

Last year, for example, the Subcommittee on Health and Environment produced the innovative Food Quality Protection Act and legislation to substantially improve the operation of the Safe Drinking Water Act. In addition, my subcommittee crafted a health insurance portability act to make basic reforms to the health insurance system and worked on the Balanced Budget Act of 1997 to include the new children's health care program and important reforms to the Medicare and Medicaid programs.

□ 2000

We also reauthorized the Ryan White Act, thus authorizing Federal dollars to States for HIV education, prevention and health service programs. I am very proud of these important accomplishments, particularly because they were done in a bipartisan way.

The foundation of the present FDA bill was developed during the last Congress, and from the beginning, our effort has been an open process, open to anyone interested in FDA reform. Our committee conducted 17 separate formal hearings on FDA reform and FDA-related issues. This represents 72 hours, 44 minutes, and 2,094 pages of testimony.

There are many who deserve credit for bringing this legislation to the floor today, several Committee on Commerce members in particular: The gentleman from Pennsylvania [Mr. GREENWOOD]; the gentleman from North Carolina [Mr. BURR]; the gentleman from Texas [Mr. BARTON]; the gentleman from Wisconsin [Mr. KLUG]; the gentleman from Kentucky [Mr. WHITFIELD]; the gentleman from Ohio [Mr. BROWN]; the gentlewoman from California [Ms. ESHOO]; the gentleman from California [Mr. WAXMAN]; the gentleman from Pennsylvania [Mr. KLINK]; the gentleman from Texas [Mr. HALL]; the gentleman from New York [Mr. TOWNS], along with our personal staffs who have dedicated many long hours to this bill. However, it was the leadership and direction, of course, of the gentleman from Virginia [Mr. BLILEY], our full committee chairman, and the gentleman from Michigan [Mr. DINGELL], our ranking minority member,

which enabled us to bring the consensus bill before the House today. At the beginning of this Congress the chairman of the full committee made it clear that he wanted action to FDA legislation and his determination to see this through has been a guiding force in our deliberations.

In addition, the cooperation of both HHS Secretary Donna Shalala and Acting FDA Commissioner Dr. Michael Friedman during this process enabled us to achieve our ultimate goal of creating thoughtful and practical FDA reform legislation which will be signed into law, I trust, by the President this year.

Finally, I want to acknowledge and thank the most important people, the committee staff on both sides of the aisle, for their dedication and hard work in crafting this important legislation, especially Howard Cohen, Kay Holcombe, who is leaving us, and, boy, are we going to miss her; Rodger Currie, Eric Berger, David Meade, Pete Goodloe and Pattie DeLoache of my personal staff.

I am proud of this legislation, Mr. Speaker. It will reduce the overregulation of research-based businesses while greatly improving the lives of millions of Americans. I believe we have done our work and done it well. I urge my colleagues to support this conference.

Mr. DINGELL. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Ohio [Mr. BROWN].

Mr. BROWN of Ohio. Mr. Speaker, today the House considers the conference report on the reform of the Food and Drug Administration. The debate on FDA reform progressed from irrational and unfounded accusations about FDA's regulation of medical products to much more rational discussions about how to modify this agency's regulatory policies and procedures in a way that will ease unnecessary regulation without reducing essential protections of public health.

I want to commend the gentleman from Virginia [Mr. BLILEY] and the gentleman from Michigan [Mr. DINGELL], the ranking member, and the gentleman from Florida [Mr. BILIRAKIS], chairman of the subcommittee, for their diligence in holding the House conferees together on issues that this body believed in. I want to commend the tireless work of our staffs, particularly Kay Holcombe and Howard Cohen.

This was not an easy task, particularly in light of the tremendous differences of opinion about what constitutes "unnecessary regulation." To make the system more accessible to consumers, it was necessary to draw a line between creating reasonable public processes and overburdening the FDA with administrative duties that take time away from the most important functions of getting safe and effective new products to market as quickly as possible.

Many argue that FDA reform is essential, because new and improved products were not reaching American consumers quickly enough. The facts simply did not bear this out. The FDA's Center for Devices literally overhauled its operations and dramatically improved its review time for new products. We reached a compromise where critics of this process and the medical device industry can be comfortable.

Perhaps the most important provision included in this legislation is the reauthorization of the Prescription Drug User Fee program. This program has provided the resources that FDA needed to make it the world leader in the review and approval of new drugs. If there were one single reason for Congress to pass this bill today, drug user fees is that reason.

Some of us may not be completely satisfied with the reforms of FDA regulation of generic drugs. I believe, however, that the debate led to some very much needed improvements. While these products are not the so-called miracle drugs we read about in headlines, generic drugs are critically important, because they provide options for physicians and for patients that often are less expensive than brand name products. Generic drugs literally save billions of dollars in health care costs, much of those savings occurring to the Federal Government through Medicaid, Veterans and Department of Defense facilities. In addition, savings in drug costs are important especially for senior citizens who obviously purchase the largest percentage of prescription drugs.

Mr. Speaker, I was especially pleased that a number of issues raised by Democratic members of the subcommittee, chaired by the gentleman from Florida [Mr. BILIRAKIS], were addressed in this legislation. I appreciate the willingness of the bill's sponsors, the gentleman from Virginia [Mr. BLILEY] and the gentleman from Florida [Mr. BILIRAKIS], to engage in these negotiations, and they were able to hold the House position during this conference.

Mr. Speaker, FDA is a remarkably effective agency. I have never been persuaded that massive changes in law were needed to correct some dreadful problem lurking under the surface.

I ask my colleagues to pass the conference report.

Mr. BLILEY. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina [Mr. BURR].

Mr. BURR of North Carolina. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, today we take a historic step towards the future of health care in America. Today we will vote on the conference report for the Food and Drug Administration modernization legislation, originally H.R. 1411 in the House, and now S. 830.

FDA modernization is not radical, it is responsible. It is not senseless, it is safe. For thousands of patients and their families, the FDA has become a cold, inhuman and indifferent bureaucracy with a lagging drug and medical approval process and a culture of unresponsiveness and disconnect. The FDA has become an obstacle in some American families in the hope for new treatments. The FDA, regulating 25 cents of every dollar in the U.S. economy, affects every American family.

This legislation will prepare the agency for technology and medical breakthroughs for the 21st century. This legislation provides hope from the corner store pharmacist who wants to provide the best medication possible to his customers, to the hospital passionately fighting against an outbreak of an antibiotic-resistant bacteria strain, to the rural doctor who desperately seeks medication to treat patients, to the terminally ill cancer patient who has no medical option left in the struggle against a devastating disease.

This legislation in fact puts a human face on the Food and Drug Administration. By infusing common business sense into the daily operation of FDA, we will enable the agency to approve safe drugs more efficiently and to reduce skyrocketing costs of research and development that is bogged down in bureaucratic red tape.

I want to thank the gentleman from Virginia [Mr. BLILEY], the chairman of the committee, Chairman JEFFORDS in the Senate, the gentleman from Florida [Mr. BILIRAKIS], the gentleman from Michigan [Mr. DINGELL], the FDA Reform Task Force, the committee staff, my staff and the Senate staff who literally spent hundreds of hours working on this very important legislation that I believe deserves the support of our entire House membership.

Today we celebrate hope and life. This legislation would not be possible without hundreds of patients who brought their personal stories to Washington. Unfortunately, many of those patients did not live to see this day.

Mr. DINGELL. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from California [Ms. ESHOO].

Ms. ESHOO. Mr. Speaker, I thank the gentleman from Michigan [Mr. DINGELL] for yielding me this time.

This evening I rise in strong support of the conference report, and I urge my colleagues to support it as well. Let me start out by acknowledging the leadership, and without the leadership of the gentleman from Virginia [Mr. BLILEY], our committee chairman, the gentleman from Florida [Mr. BILIRAKIS], our subcommittee chairman, and certainly the gentleman from Michigan [Mr. DINGELL], our ranking member, and the gentleman from Ohio [Mr. BROWN] of the subcommittee, and all of the Members from my side of the aisle as well as the majority, we would not come to this moment.

Like all conference reports, it represents a compromise. Nonetheless, the agreement is entirely consistent with the bill which passed the House by a voice vote last month. That is highly unusual for a bill of such substance and such importance to come to the floor and be passed by a voice vote. I am proud of the role that I was able to play in this.

The FDA, I believe, will be a better agency because of this legislation. Drugs and medical devices will get to patients sooner without any reduction in the safety and the effectiveness of these products.

I am particularly pleased that a compromise was reached among the conferees on a provision allowing for accredited third parties to review medical devices, and that the House held its position with regard to the labeling of devices. Had the House not insisted on this language, this conference report would have been vetoed, and all of our hard work would have been lost.

I hope, Mr. Speaker, that my colleagues appreciate the tremendous bipartisan, bicameral support that went into bringing this conference report to the House today. The list of people to thank is far too long to mention here, but there is one, because I think if there were a subset title to this bill, it would be the Kay Holcombe Act of 1997. The tributes that have been paid to her are well-deserved and she should receive the gratitude and the applause of the American people, because they are the ones that we really went to the table for, and were it not for her professionalism, her patience, her hard work, we would not have arrived at this moment.

I salute everyone that was a part of this, and if there is anyone on either side of the aisle that thinks that there are not unending opportunities to seize in the Congress, they are wrong. I found one with my colleagues, and one of them seated on the other side of the aisle, JOE BARTON, my partner on the medical device bill, many thought that with the two of us being partners that it could not be done. It was done, we come to this moment, and I urge my colleagues to support the conference report. It is good for the American people, and we are proud of the effort.

Mr. BLILEY. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. BARTON].

Mr. BARTON of Texas. Mr. Speaker, I thank the gentleman from Virginia for yielding me this time.

Mr. Speaker, most of us go through life being blessed with good health for ourselves and our loved ones, but as Members of Congress, we have all been literally begged by parents of sick children and our very ill adult patients themselves to try to help them work through the regulatory nightmare that is the current FDA review process.

When the bill before us becomes law, that nightmare will be no more. Instead of confrontation, we will have consultation and cooperation between the FDA, patient groups, researchers, and manufacturers. Instead of needless bureaucracy, we will have streamlined procedures for bringing the most comprehensive new medical devices and drugs to market as soon as is safely possible.

In the medical device section of the bill that the gentlewoman from California [Ms. ESHOO] and I cosponsored together in the House, we have a very practical third-party review process, we have a dispute resolution procedure that will allow researchers and manufacturers to work out their differences with the FDA reviewers; we have a reclassification of the existing device section that will let a lot of devices that are now class 3 be class 1 or class 2. Very importantly, we have an expanded and reformed use for humanitarian medical devices that will bring some of these experimental devices as quickly as possible to the market.

I must thank the gentlewoman from California [Ms. ESHOO], who has just been a one-man band in trying to force compromise and get me to back down when I really did not want to. She has done excellent in that. The staff level, in addition to the other staffers, I would like to thank Bill Bates of the office of the gentlewoman from California [Ms. ESHOO], Alan Slobodkin of the committee oversight staff, and Beth Hall of my staff, who have all done yeoman's work.

This is not a perfect bill, but it is a great start. I am going to use the oversight chairmanship to oversee implementation, and I hope that we pass this unanimously this evening. It is good for the American public.

□ 2015

Mr. DINGELL. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Mr. Speaker, my congratulations to the gentleman from Virginia, Chairman BLILEY, and the gentleman from Florida, Mr. BILIRAKIS, and our Democratic leaders, the gentleman from Michigan, Mr. DINGELL, and the gentleman from Ohio, Mr. SHERROD BROWN, for producing the Food and Drug Administration Modernization Act, which marks the successful end of a long 3-year process. I do not agree with some of the provisions in this bill, and I certainly would have written it differently, but I do support it today.

I have no difficulty in supporting this legislation in large part because Chairman BLILEY developed a process where all Members could participate, their views could be heard, and compromises could be reached. That kind of leadership is harder than some might think, because there is always pressure to be

partisan and to get what one side and only one side wants. But if we are going to ever pass legislation into law, we have to recognize that it needs to be done on a bipartisan basis, and we have to have a process where we try to find common ground.

I want to express my appreciation to our chairman for his leadership. I do have some reservations about the scope of many of the provisions in this legislation, particularly when it comes to the off-label promotion of drug and devices and third-party review of devices. But I want to point out that these are experimental provisions with sunsets which will allow us to critically reexamine their public health consequences.

I applaud very strongly the reauthorization of the Prescription Drug User Fee Act, which I was proud to have authored. It has been very successful and has allowed the FDA to speed the approval of drugs.

There are a number of other provisions that we ought to take note of because they will directly benefit many patients. The requirement that drug companies report on their fulfillment of postmarketing studies fills an important gap in ensuring that critical information is reaching patients. The clinical data base will create new opportunities for patients to have greater access to comprehensive information about experimental therapies for serious and life-threatening diseases. It is my expectation that companies will work with the FDA in this enterprise in the same cooperative spirit in which it is enacted.

The pediatric drug provision complements the FDA's recent regulations, and provides targeted incentives to improve the quality of health care for infants and children. Although I had reservations regarding the need to provide additional market exclusivity following the proposal of the regulations, there may still be limited situations in which this provision will encourage new clinical research to establish the safety and effectiveness of drugs for children.

The provision requiring notice of discontinuance of the manufacture of life-saving drugs will ensure that patients receive time to find alternatives to medicines which will no longer be available. Instead of having to make medically sensitive decisions in haste, they will have 6 month's notice of a company's decision which could have tremendous implications for their health. Only a company with "good cause" will be permitted to end distribution or manufacture of its drug with less than 6 months notice, and in that event, the FDA will be able to determine the accuracy of this claim through records and documentation.

The preemption of state laws regarding over-the-counter drugs and cosmetics has been resolved in an impor-

tant compromise, under which the FDA is granted new enforcement authority over OTC drugs, the states are not preempted with respect to cosmetic safety, and preemption of cosmetic packaging and labeling only occurs where the FDA has taken action on specific and narrow questions. Most importantly, this provision does nothing to affect California's Proposition 65, an innovative state initiative that has helped reduce Californians' exposure to toxic hazards.

This bill is a far cry from the proposals first floated three years ago which ran roughshod over consumer protections, supplanted our own product approvals with those of other countries, and weakened crucial statutory guarantees of safety, effectiveness and quality. The reason for this striking difference was the persistent skepticism of American consumers, who understood that it is the FDA which ensures that our food is safe and our medicines are safe and effective.

This was made clear by the Patients' Coalition, which represents a hundred patient and consumer organizations and hundreds of thousands of patients. For three years, the Coalition has vigorously opposed extreme and controversial proposals for FDA deregulation. Today, this bill will receive bipartisan support because of the Coalition's unremitting vigilance and hard work in defeating efforts to weaken public health protections through FDA "reforms."

Given the extraordinary success of PDUFA, it makes sense for Congress to apply user fees to other areas of FDA jurisdiction, including medical devices. Enacting such fees, modeled on authorized, additive user fees under PDUFA and not upon the unauthorized "sham" fees frequently proposed by OMB, would bring similar efficiencies to the device approval process.

Regrettably, this legislation does not do so. Instead, it enacts substantial new burdens on the FDA and, in particular, the Center for Devices and Radiological Health. I am deeply concerned that unrealistic deadlines and dozens of new mandates will slow the tremendous progress that has been made in speeding device approvals. It remains to be seen whether we will inadvertently divert limited staff, time and resources from the FDA's most important business—ensuring that our food supply is the safest in the world and that drugs and devices are safe and effective.

I want to recognize the important work of the staffs on both sides of the aisle in developing this legislation. Without them it would have been impossible for us. I want to compliment as well those in the Senate who played such an active role, and all of my colleagues who have played an important role, in developing this legislation.

I especially want to recognize the dedication and hard work of Kay

Holcombe, our Commerce Committee staff, and the work of Howard Cohen, Eric Berger and Rodger Currie, the Majority committee staff, on this legislation. I would also emphasize the tireless work by the professionals at the FDA, including Bill Schultz, Peggy Dotzell and Diane Thompson, and the representatives of the Patients Coalition, Scott Sanders, Michael Langen, Maura Kealey and Tim Westmoreland.

I complement Chairman BLILEY and Congressman DINGELL of the Commerce Committee, and Chairman JEFFORDS and Senator KENNEDY of the Senate Labor and Human Resources Committee, for their hard work and join my colleagues in supporting this important legislation.

Mr. BLILEY. Mr. Speaker, I yield myself 15 seconds.

Mr. Speaker, I just want to thank the very kind and generous remarks of the gentleman from California [Mr. WAXMAN]. I hope that not too many of my people down in Richmond were watching. It might have an adverse affect on me in the next election. But again, I thank him very much, and I have enjoyed working with him.

Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. GREENWOOD], whose work played a great part in bringing this legislation to us this evening.

Mr. GREENWOOD. I thank the chairman for yielding, Mr. Speaker, and I thank him also for the opportunity to chair this task force.

When Chairman BLILEY asked me to chair the task force on the FDA reform, I did not know a whole lot about the FDA, not more than most people did, but I learned an awful lot. One of the things that I learned is that we are approaching what I think will be a golden age of medicine. We are making such incredible breakthroughs right now in biotechnology and genetic engineering, in pharmacology, in the development of high-tech medical devices, that I believe that we are going to give the next generation in the next century, as well as many of us, opportunities to defeat diseases that have plagued mankind for a very long time, and be able to relieve people from their suffering from these diseases.

But central to this promise is the role of the Food and Drug Administration. The Food and Drug Administration exists for the very critical job of making certain that all of these miracle cures, all of these devices and drugs, are both safe and effective.

The problem we discovered is that the agency had become bureaucratic, and the law that governs it had become antiquated and was not keeping up with this modern age of miracle cures. We set about the role of seeing if we could make the FDA work more efficiently, bring these cures to those who are suffering more rapidly, while still maintaining the golden standard of safety and efficacy.

I also learned of some very human situations. I learned that I had a constituent whose name is Shelbie Oppenheimer. She is a hero to me. She is a 30-year-old woman who at the age of 28 was running a day care center and discovered that she had ALS, Lou Gehrig's disease. It is a progressive, fatal neuromuscular disorder that attacks nerve cells and pathways in the brain and spinal cord.

There is no cure for it, but there is a new medication that can delay the onset of the disease and slow its progress. My constituent, Shelbie Oppenheimer, and her husband, Jeff Oppenheimer, desperately want her to have access to this medication. Mr. Speaker, it is my hope that this legislation gives Shelbie Oppenheimer the extra time and the extra hope that this new medication will provide her.

I would like, Mr. Speaker, to dedicate this bill to Shelbie Oppenheimer and to all of the other Shelbie Oppenheimers around the country who are waiting for the Congress to reengineer the FDA so that it can approve these new miracle cures for them more rapidly.

I am also pleased that the legislation that I had introduced separately, the better pharmaceuticals for children bill, has been incorporated into this reform package, so we can bring the miracles of modern medicine not only to adults, but to the children who up until this time were not the subject of trials.

I would like to thank all of my colleagues and the chairman, the gentleman from North Carolina [Mr. BURR], the gentleman from Texas [Mr. BARTON], the gentleman from Wisconsin [Mr. KLUG], and the gentleman from Kentucky [Mr. WHITFIELD], for their assistance, and certainly echo the comments of those who have praised our very, very able staff.

Mr. DINGELL. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Speaker, the conference report before us has been the product of hard work, tough negotiations, and true bipartisanship. The result is a well-crafted bill that will reauthorize the Prescription Drug User Fee Act, and enact common-sense Food and Drug Administration reform.

I want to congratulate the chairman and the ranking member and the professional staff of the committee on both sides of the aisle, particularly Kay Holcombe, for their work on this very successful piece of legislation.

Pursuant to the bill, patients will have access to safe new drugs, treatment, and equipment faster than before; businesses will be able to save their customers money without sacrificing safety; and the FDA will be able to focus more time and money on regulating medical treatments instead of pushing paper. I think it is a win for everyone.

Mr. Speaker, I just wanted to mention a few provisions of the bill that I am particularly concerned with, concerning the drug provisions. I am particularly pleased with the inclusion of a bipartisan amendment that would provide for notification when a company terminates a product which could cause severe harm to a patient because of its discontinuance.

To allay industry concerns, I ask that there would be included in the bill a good cause waiver that allows the FDA to waive the time requirement. I understand that the provision has been slightly modified in conference in that companies have to certify to the FDA that these good cause waiver requirements are met. This provision still represents good citizenship by the sole manufacturers of medical products, and I believe that the conference report compromise is a good one.

In addition, two amendments concerning mercury were incorporated into this bill. One of them requires the FDA to restudy the impact of a form of organic mercury in nasal sprays on the brain, and the second provision provides for a study that would examine the sale of mercury as a drug or for other home use. These are both good government provisions. I appreciate the work of the committee for including them in the conference report.

On the device side, I wanted to congratulate the gentlewoman from California [Ms. ESHOO] and the gentleman from Texas [Mr. BARTON] for their ability to find common ground with the FDA and the industry on many issues. While third-party review may not be the panacea, freeing up the FDA's limited resources to review and approve high-risk devices is the next best thing, especially without greater resources being devoted to the FDA directly.

Finally, I am very pleased that language was included, the House language, to ensure that this legislation does not hinder the FDA's authority to reduce teen smoking. We are going to be dealing with the issue of teen smoking and tobacco in general in the committee. I know we are going to start having hearings on it next week. I think it was important and sound policy that this provision be included.

I just want to urge adoption of this conference report. I know that the committee and the staff and all have worked very hard on this. I think it is a very successful bill that will be passed into law and signed by the President.

Mr. BLILEY. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. STEARNS], a member of the committee.

Mr. STEARNS. Mr. Speaker, I am here to support the FDA reform bill, and to compliment the chairman and ranking member, and, of course, the subcommittee chairman, the gentleman from Florida [Mr. BILIRAKIS],

who is a colleague. But I am disappointed that this legislation lacks a provision preventing the FDA from going forward with its proposed plan to ban certain metered-dose inhalers.

I have introduced legislation, and myself and other colleagues have worked hard to try and lobby the conference. We were not successful. The FDA is proposing to ban metered-dose inhalers containing chlorofluorocarbons sooner than America agreed to in the Montreal Protocol. I am going to reach out to both sides to see if we can pass a standing piece of legislation, because CFC damage is there, it hurts the ozone layer, but, frankly, we need to phase it out and not move abruptly.

The Federal Government allows the use of CFCs for bear repellent and wasp and hornet sprays, yet the FDA wants to take away medicines for metered-dose inhalers because they have CFCs. Are killing bugs and chasing away bears really more important than the health of our children? I do not think so. Next session, Mr. Speaker, let us keep the FDA from banning these inhalers until safe and effective alternatives are developed.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Rhode Island [Mr. KENNEDY].

Mr. KENNEDY of Rhode Island. Mr. Speaker, I thank my colleagues who have been speaking out on this issue, most notably the gentleman from Florida, Mr. CLIFF STEARNS, who just spoke. Asthma kills roughly 5,000 people every year. There are over 30 million Americans who depend on those metered-dose inhalers, such as the one I have in my pocket, in order to relieve themselves of the terror of being gripped with asthma.

What the FDA has proposed is they have proposed phasing out these metered-dose inhalers because of their CFC content. CFC content in metered-dose inhalers contributes less than 1 percent of the chlorofluorocarbons in the atmosphere, yet the FDA would like us to believe that by banning these inhalers, we will get about complying with the Montreal Protocol and achieving a reduction in chlorofluorocarbons.

As my colleague, the gentleman from Florida, Mr. CLIFF STEARNS, said, this is all while the EPA has yet to ban refrigeration and air conditioning, which contributes 58,000 tons of CFC's, things such as solvent applications, red pepper bear repellent, lubricant coatings, and foam blown with CFC's used in coaxial cables.

The point I am going to make is we are going after less than 1 percent of the CFC's in the atmosphere by banning these metered-dose inhalers when we have not taken into full account the public health impact on asthmatics all across the country who depend on these metered-dose inhalers in order to relieve them from their asthma.

I can tell the Members, I have four different inhalers. I think there is only one of them that has a non-CFC component. We should not be rushing to ban these inhalers without fully testing and evaluating the impact of those non-CFC inhalers, so we do not adversely impact the public health of our people.

I want to thank the gentleman from Michigan [Mr. DINGELL] and the gentleman from Virginia, Chairman BLILEY, for agreeing to a bill that will address this issue in the upcoming year.

Mr. BLILEY. Mr. Speaker, I yield 1 minute to the gentleman from Kentucky [Mr. WHITFIELD].

Mr. WHITFIELD. Mr. Speaker, I thank the gentleman for yielding time to me. I want to give special thanks to the gentleman from Virginia [Mr. BLILEY] and the gentleman from Michigan [Mr. DINGELL] for the leadership they have provided. I rise in strong support of this conference report of FDA reform legislation as it relates to medical devices, prescription drugs, and food.

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The food provisions of the final version of this bill reflect closely the hard work of the House in addressing the need for fine-tuning the Nutrition Labeling and Education Act of 1990. Clearly, much more needs to be done before we can assert that our Nation's food laws have been completely reformed. However, this is a responsible down payment of food reform that we can expect to benefit public health.

I want to commend those Members and staff on both sides of the aisle who worked so diligently as we were successful in passing this legislation overwhelmingly. I would urge all Members of the House to support this conference report.

Mr. BLILEY. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. FOX].

Mr. FOX of Pennsylvania. Mr. Speaker, the gentleman from Virginia [Mr. BLILEY], the chairman, and the gentleman from Michigan [Mr. DINGELL], the ranking member, should be very proud of this legislation.

FDA reform is certainly one of the most important pieces of legislation to pass in this session. I know from testimony in my own home county, Montgomery, Pennsylvania, we had hearings regarding the fact that many people waiting for a cure, a vaccine, whether they have ALS, or cancer, or AIDS or epilepsy, up until now, it took \$5 million and 15 years for many of our drug companies to get approval from FDA.

This legislation will hasten the available market for miracle cures going from lab to the patient without bureaucratic delay. It will speed up that approval time. Independent agencies will be able to do the testing. This will be a lifesaving procedure because of this legislation's adoption.

I also want to thank the gentleman from Florida [Mr. BILIRAKIS], the gentleman from North Carolina [Mr. BURR], the gentleman from Pennsylvania [Mr. GREENWOOD], and the gentleman from Texas [Mr. BARTON] for all of their leadership on this issue, because Americans, in a bipartisan fashion, want to have the drugs that are available for them to live longer and to live better. And the same applies, of course, to medical devices and biologics. I appreciate the support of every Member of this entire House to support this FDA reform.

Mr. BLILEY. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. BILBRAY], a member of the committee.

Mr. BILBRAY. Mr. Speaker, I have the privilege of representing the 49th District of the State of California, San Diego, which has one of the largest concentrations of pharmaceutical companies in the world, but also has more biotech industries in the area than anywhere else in the world, including a combination of Britain and Japan combined.

Mr. Speaker, I like this bill, and I think my constituents will appreciate this bill, not because of those industries, but because of what it does for consumers.

The fact is, Mr. Speaker, there are two ways of hurting a patient. One is to give them inappropriate treatment. But the other, and sadly all too common way of hurting a patient, is not to provide appropriate treatment and to deny that appropriate treatment to people who are ill.

One of the problems we have had in the past is that there have been medication and treatment that have been denied the American consumer that have been available all over the world. This bill is a progressive, well balanced bill that will finally now improve the situation to allow the American consumer to have what they need desperately: safe, effective drugs, as soon as possible. I appreciate the support for the bill.

Mr. DINGELL. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I think we are witnessing an extraordinary event in this Congress and, indeed, almost in any Congress. In the closing days of the session, with the usual tensions and mischief that exist, we are finding great enthusiasm on a very fine piece of legislation which started out rather under a dark star and which, through some remarkable cooperation, has come to the point where we have not only agreement but firm agreement on a good bill, something which is going to help manufacturers, help the economy, to help the consumers and patients. It is going to help the medical profession, it is going to make Americans safer, and it is going to see to it that good drugs, safe and efficacious, come more quickly to the marketplace.

It is also going to see to it that the other responsibilities of the Food and Drug Administration are conducted in a more efficient and speedy fashion. It shows what real bipartisanship can do when Members of Congress on both sides of the aisle get together and when there can be the kind of cooperation and goodwill there was in the conduct of this particular negotiation.

The result is a fine piece of legislation, one which will benefit the country, one which will benefit the industry, one which will make for better government, and one which will do something else, and that is to protect the consumer and see to it that we get to the American people the best drugs in the fastest and safest and the most assured fashion. I urge my colleagues to support the bill.

I want to commend my colleague, the gentleman from Virginia [Mr. BLILEY], for his fine leadership in this matter. And I want to express my personal thanks and that of the Members on this side of the aisle to Kay Holcombe for the superb job that she has done in preparing this piece of legislation for consideration today. I also am grateful to Secretary Shalala, Dr. Friedman, and the excellent FDA staff for their assistance.

Mr. Speaker, I yield back the balance of my time.

Mr. BLILEY. Mr. Speaker, I thank the gentleman from Michigan [Mr. DINGELL] for his kind words. Without his help, we would not be here.

Mr. Speaker, I yield the balance of our time to the gentleman from Iowa [Mr. GANSKE].

Mr. GANSKE. Mr. Speaker, my congratulations to all who have been involved with this bill.

As a physician, I am very proud to be in favor of this bill. This bill will help bring new and better drugs and medical devices to the market. It will also help older drugs be better used. There are many off-label uses of older drugs that are beneficial to our constituents, like aspirin to prevent heart attacks; 80 to 90 percent of cancer treatment is off-label. In fact, for some diseases, off-label treatment is a standard of care.

Section 7 of H.R. 1411 improves to help public health by increasing the amount of accurate, balanced, scientific information that is available to physicians and other health care professionals. This has been an important compromise between the administration, the FDA, and a bipartisan Congress.

Secretary Shalala said the language that we have agreed to will give the FDA the opportunity to review new information in advance of its dissemination to ensure that it is accurate and balanced. This provision is supported by the AMA, the American Cancer Society, the National Multiple Sclerosis Society, and many other groups who know that greater dissemination of sci-

entific information means better care for patients.

Please vote for this bill.

Mr. WHITFIELD. Mr. Speaker, thanks are owed to several Members for their leading role in the development of the food provisions of this bill. Special thanks must be given to Chairman BLILEY, ranking minority member DINGELL, as well as Messrs. TOWNS, HALL, GANKSE, and of course, the author of the food reform legislation in the last Congress, Mr. KLUG. Praise is also due to the exceptional work of committee counsel, Eric Berger, as well as James Derderian and to staff of members of the committee including Tim Taylor of my staff, Brenda Pillors, Grace Warren, and Jon Traub. Special note should be made of the work of Kay Holcombe, who has served the Commerce Committee and Public Health as a whole with extraordinary professionalism of many years.

The food provision of the final version of this bill reflects closely the hard work of the House in addressing the need for fine tuning of The Nutrition Labeling and Education Act of 1990 [NLEA]. Clearly, much more needs to be done before we can assert that our Nation's food law has been reformed. However, this is a responsible down payment of food reform that we may reasonably expect to benefit public health.

A compelling problem that is addressed by this legislation is the Food and Drug Administration blocking truthful, nonmisleading information from American consumers. As a matter of public health, this has prevented, either by prohibition or excessive delay, consumers from receiving important information about the nutritional content or health benefits of various foods. This problem also takes the form of an abridgement of the first amendment rights of persons who seek to make truthful, nonmisleading statements about a food. FDA has an absolute duty to act within statutory time frames for action on petitions for claims. The failure to do so would constitute a violation of first amendment rights of petitioners. Particularly given the vulnerability of petitioners to retaliation from the FDA, the courts are urged to be expansive in issues of standing in suits regarding failure by the agency to take timely action.

Specifically, the conferees have brought forth a bill that addresses these issues by providing a maximum review time for final action on petitions for claims, including a requirement that the Secretary report on any instances where final action is not taken within the 540 day review period so that the committees of jurisdiction may be promptly informed of a breakdown in the regulatory scheme. Also, special streamlined review mechanisms are provided for health or content claims that are based on the conclusions of authoritative scientific bodies, such as the National Academy of Sciences. The Secretary is granted authority to make proposed rules effective immediately as an exceptional tool to assure that the FDA's duty to pre-approve claims can be met without delay that undermines the regulatory scheme or threatens the first amendment right of petitioners. Unnecessary requirements regarding referral statements that accompany certain nutrient content claims have been eliminated under the bill. And, in a mat-

ter where both food safety and first amendment rights have been jeopardized by heavy handed regulatory requirements, an important provision of the bill addresses the labeling of foods treated by irradiation.

To implement the irradiation amendment, FDA is to expeditiously conduct a rulemaking to revise its current irradiation disclosure requirement. The current requirements of the rule, a "Treated with Radiation" or "Treated by Irradiation" statement, accompanied by the international radura symbol, make clear that the process has been used. However, it is equally clear that this requirement has had the perverse effect of discouraging many consumers from purchasing food that has been made safer by this process. The conferees are concerned that the current disclosure requirement may be perceived as a warning and that it may raise common but inappropriate anxieties about radiation technologies. FDA should use the new rulemaking to assure that disclosures are only required as necessary to inform consumers of a material fact regarding the food. FDA's 1986 preamble to its final rule regarding irradiation disclosure well explained the general rule regarding disclosure of material facts and how that rule relates to food that has been irradiated:

In this case, the standard for misbranding under sections 403(a) and 201(n) of the act is whether the changes brought about by the safe use of irradiation are material facts in light of the representations made, including the failure to reveal material facts, about such foods. Irradiation may not change the food visually so that in the absence of a statement that a food has been irradiated, the implied representation to consumers is that the food has not been processed.

The Agency recognizes, however, that the irradiation of one ingredient in a multiple ingredient food is a different situation, because such a food has obviously been processed. Consumers would not expect it to look, smell, or taste the same as fresh or unprocessed food, or have the same holding qualities. Therefore, FDA advises that the retail labeling requirement applies only to food that has been irradiated when that food has been sold as such (first generation food), not to food that contains an irradiated ingredient (second generation food) but that has not itself been irradiated.

Thus, FDA determined that disclosure is required to convey to consumers the material fact that the food is not fresh or unprocessed. Given the fresh appearance of food treated by irradiation, FDA determined that the omission of such a disclosure would cause a false or misleading presentation of the food. FDA has authority in this regard only to prevent false or misleading presentation of the food. FDA would exceed its authority if it were to prohibit a truthful, nonmisleading presentation of the food. In any situations where FDA determines that an irradiation disclosure remains necessary, it is obliged to achieve that objective in a minimally burdensome manner. Disclosure statements may only be required where presentation of the food would be false or misleading absent a disclosure statement. Statements different from the current disclosure requirement would suffice if they inform consumers of the material fact that is basis for the disclosure requirement. FDA is obliged to permit disclosure of the material fact through any

statements that are not false or misleading. Moreover, the conferees expect FDA to take pains to assure that where disclosure is appropriately required, such required statements not give rise to consumer confusion that could inhibit use of this pathogen reducing technology. It would be unacceptable for FDA to justify a disclosure requirement that may cause consumer confusion with the excuse that the confusion may be corrected by a proper consumer education program. On its face, such an approach creates burdens that inhibit the use of this technology and, as a consequence, food safety.

The conferees strongly support the consumer right to know. The act contemplates that right being addressed through a vast array of truthful, nonmisleading voluntary label statements, as well as required disclosure of material facts that are not obvious in the presentation of a food. With respect to food that has been irradiated, this legislation does not limit FDA's existing authority to require disclosure nor does it forbid use of the international radura symbol as one of the means of making such a disclosure. The conferees expect FDA to continue to require necessary disclosures to prevent consumers from being misled about any material fact about a food.

Also in the area of labeling, I am disappointed to note that the Senate conferees would not accept the elimination of antiquated and bizarre provisions of the Food, Drug and Cosmetic Act that apply only to margarine. It is a sad measure of our food regulatory system when industries seek competitive advantage over one another through the imposition and maintenance of absurdly burdensome requirements such as these.

I am pleased to report that the conferees have agreed to direction for FDA to take final action within 60 days on the petition to permit the irradiation of beef. This petition has been pending in FDA for over 3 years, despite the requirement that FDA act on such petitions within 6 months. Also, the bill includes reforms in the review of food labeling packaging materials that should assist FDA in expediting appropriate approval of both these materials and, through greater efficiency of operation, all food additive petitions.

I urge my colleagues to vote for the conference report so that we may make this down payment on food law reform.

Mr. TOWNS. Mr. Speaker, I join my colleagues in applauding the scheduling of the conference report on S. 830, legislation to reform the Food and Drug Administration, prior to our adjournment of the 1st session of the 105th Congress. This bill is the culmination of 2 years of hard bipartisan work by the Commerce Committee to modernize procedures that the Food and Drug Administration uses to approve drugs, devices and food products. Once again, Mr. Chairman, the Commerce Committee under the able leadership of our chairman, Mr. BLILEY, and our ranking member, Mr. DINGELL, have demonstrated that we have the ability to develop comprehensive legislative responses to critical public policy questions. I also want to especially acknowledge the efforts of our subcommittee chairman, Mr. BILIRAKIS and our ranking subcommittee member, Mr. BROWN, for the willingness to guide the deliberations on this bill in a bipartisan fashion.

Without the modernizing steps that have been incorporated in this legislation today, the FDA would continue to be seen as a barrier to new innovative therapies and products. The bill before us today represents a careful balance between a new, streamlined process and consumer protections against harmful products. These innovations in the way the FDA will do business from now on makes the approval of drugs and devices a more predictable process.

Finally, Mr. Speaker, I am most pleased about the provisions in this bill which relate to food products. I had the wonderful experience of working closely on these issues in a bipartisan fashion with the gentleman from Kentucky [Mr. WHITFIELD], the gentleman from Wisconsin [Mr. KLUG], the gentleman from Pennsylvania [Mr. GREENWOOD], and the gentleman from Texas [Mr. HALL]. While some argued that food reforms were too controversial to include in this bill, my colleagues and I never stopped believing that we could craft reasonable and meaningful food reforms that would be acceptable to the industry, FDA, and consumers alike. With the able assistance of our committee counsels on both sides of the aisle, Eric Berger and Kay Holcombe, the measure incorporated in S. 830 accomplish this goal. The food issues in this bill build on the success of the Nutrition Labeling and Education Act and they represent a modest downpayment on more significant food law reforms, including the question of national uniformity.

Mr. Speaker, I join my colleagues from the Commerce Committee in urging the immediate passage of this legislation.

Mr. RAMSTAD. Mr. Speaker, I rise in strong support of the Conference Report on comprehensive legislation to reform the Food and Drug Administration [FDA]. And I thank Chairman BLILEY and the others who worked so hard to bring this important Conference Report to the floor for passage before Congress adjourns for the year.

Reforming the FDA's approval process has been a major goal of mine since I first came to Congress in 1991. In fact, in an effort to educate House members about the need for reform for medical devices, Representative Tim Valentine and I founded the bipartisan House Medical Technology Caucus, which I now chair with Representative ANNA ESHOO.

As we all know, it now takes 15 years and \$350 million to get the average new drug from the laboratory to the patient. The average time for the FDA to approve a medical device has increased from 415 days in 1990 to 773 in 1995—even though the FDA is currently required by law to take no longer than 180 days to approve new devices.

This is precisely why I became an original cosponsor of the medical device section of this reform package. The medical device provisions will save lives, improve health and create jobs in the United States by getting medical devices to market faster.

I also strongly support the sections in the bill to reauthorize the Prescription Drug User Fee Act [PDUFA] and reform the approval process for pharmaceuticals and animal drugs.

Mr. Speaker, these reforms passed today will force the FDA to get its act together so life-saving devices and drugs will get to people who need them as expeditiously and safely as possible.

The health care consumers, medical device and pharmaceutical companies of America deserve nothing less!

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Virginia [Mr. BLILEY] that the House suspend the rules and agree to the conference report on S. 830.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the conference report was agreed to.

A motion to reconsider was laid on the table.

#### SENSE OF HOUSE IN SUPPORT OF FREE AND FAIR REFERENDUM ON SELF-DETERMINATION FOR PEOPLE OF WESTERN SAHARA

Mr. ROYCE. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 245) expressing the sense of the House of Representatives in support of a free and fair referendum on self-determination for the people of Western Sahara, as amended.

The Clerk read as follows:

#### H. RES. 245

Whereas United Nations Secretary General Kofi Annan appointed former United States Secretary of State James Baker III as his Personal Envoy for Western Sahara to end the prevailing referendum stalemate;

Whereas talks between the Kingdom of Morocco and the Front for the Liberation of Saguia el Hamra and Rio de Oro (also known as the Polisario Front) mediated by Mr. Baker have achieved agreement on ways to end the referendum stalemate;

Whereas the end of the stalemate over the Western Sahara referendum would allow for the release of civilian political prisoners and prisoners of war held by Morocco and the Polisario Front; and

Whereas the United States supports the holding of a free, fair, and transparent referendum on self-determination for the people of Western Sahara: Now, therefore, be it

Resolved, That the House of Representatives—

(1) expresses its full support to former United States Secretary of State James Baker III in his mission as Personal Envoy of the United Nations Secretary General for the Western Sahara;

(2) expresses its support for a referendum on self-determination for the people of Western Sahara that should meet the following criteria:

(A) free, fair, and transparent and held in the presence of international and domestic observers and international media without administrative or military pressure or interference;

(B) only genuine Sahrawis, as identified in the method agreed to by both sides, will take part in the referendum voting; and

(C) the result, once certified by the United Nations, is accepted by both sides;

(3) encourages the release of civilian political prisoners and prisoners of war held by Morocco and the Polisario Front at the earliest possible date; and

(4) requests the administration to fully support former United States Secretary of State James Baker III in his mission of organizing a free, fair, and transparent referendum on self-determination for the people

of Western Sahara without military or administrative constraints.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. ROYCE] and the gentleman from California [Mr. MENENDEZ] each will control 20 minutes.

The Chair recognizes the gentleman from California [Mr. ROYCE].

GENERAL LEAVE

Mr. ROYCE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this measure.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. ROYCE. Mr. Speaker, I yield myself such time as I may consume.

This resolution expresses the support of the House of Representatives for the so-far successful negotiations between the Kingdom of Morocco and the Polisario Front, who have made the tough decision to peacefully work out their differences on the conduct of a referendum on self-determination for Western Sahara. The negotiations have been guided by former Secretary of State James Baker, now serving as the Special Envoy of the U.N. Secretary General for Western Sahara.

Secretary Baker's diplomacy have broken a 6-year stalemate on referendum negotiations. While no date has been set for balloting, we appear to be closer to fair and free referendum for Western Sahara than at any time in the last two decades. This conflict, which has often seemed intractable, has not received the attention it deserves. This is now changing with Secretary Baker's engagement, as well as with the attention that Congress is now paying to this issue.

This resolution not only praises the efforts of Secretary Baker but it puts the House on record as supporting a free, fair, and transparent referendum. At this sensitive point in the process, such a nonpartisan expression of support is valuable. Mr. Baker said in a Washington news conference last week that this resolution provides a much needed boost to a referendum process he referred to as the "last opportunity for peace" in Western Sahara.

Years of fighting between Morocco, the Polisario Front, and Mauritania have claimed thousands of lives and created hundreds of thousands of refugees. The equitable ending of this conflict is important to the United States. Morocco is a longstanding American ally, and continued turmoil in the region is contrary to United States interests.

The breakthrough achieved by Secretary Baker is important. That is why we need to take proper notice of it. It is time to show all parties that the United States is watching and cares. I urge my colleagues to support this bal-

anced resolution as a sign of congressional support for the significant advance that has taken place toward resolving this longstanding conflict.

Mr. Speaker, I reserve the balance of my time.

Mr. MENENDEZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of House Resolution 245, expressing the sense of the House in support of a free and fair referendum on self-determination for the people of Western Sahara.

Mr. Speaker, I think we owe a great deal of gratitude to former Secretary of State James Baker for his service as Special Envoy. Clearly, it was his intervention which brought an end to the referendum impasse and which has allowed for an opportunity for peace in the region.

For too long, the situation in the Western Sahara has been left unresolved, and for too long it has caused tension in the region and within the African continent. It is crucial at this juncture that the U.S. Government and the Congress put their weight behind the plan negotiated by former Secretary Baker. There is only a small window of opportunity to implement the agreement, which itself remains quite fragile. If we bypass this opportunity by our inattention or if we allow either side to renege on the commitments made in Houston, we will be responsible for foregoing an opportunity for long-term peace in the region. That is not a cost we can afford, and it is a small price to pay for peace and democracy.

The Houston plan has at long last found a resolution which is acceptable to both the Moroccan Government and the Polisario Front. The referendum, which will be held next December, will grant the Sahrawi people their long-awaited right to self-determination, the same right enjoyed by free people throughout the world.

Sahrawi President Abdelaziz has given his word that he will stand by and respect the people's decision regardless of the outcome as long as the referendum is free and fair and allows only Sahrawis to vote. The Sahrawi people have been left in limbo due to political considerations rather than any really legal dispute.

In 1975, the International Court of Justice declared that there is no establishment of any legal ties of territorial sovereignty between the territory of Western Sahara and the Kingdom of Morocco. Now the Sahrawi people will have the opportunity to decide for themselves their political future, be it independence or incorporation into Morocco. It is their choice.

I want to thank the gentleman from California [Mr. ROYCE] for his leadership in bringing the resolution before the House and for sponsoring it. I am proud to be an original cosponsor. And I also want to again congratulate

former Secretary Baker for his tremendous efforts. He has been and we expect will continue to be crucial to the success of this ultimate endeavor.

Mr. Speaker, I reserve the balance of my time.

□ 2045

Mr. ROYCE. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. GILMAN], the distinguished chairman of the Committee on International Relations.

Mr. GILMAN. Mr. Speaker, I want to thank the distinguished gentleman from California [Mr. ROYCE], the chairman of our Subcommittee on Africa, for introducing this resolution and for his outstanding leadership on this very difficult issue. The purpose of this resolution is to highlight the significant efforts of former Secretary of State James Baker in advancing a peaceful solution to the question of Western Sahara. Due to the leadership by the gentleman from California [Mr. ROYCE], this resolution has moved forward in a consensus manner. We have worked closely with both sides on the Western Sahara question and with Secretary Baker and all parties find that the resolution is agreeable.

Accordingly, Mr. Speaker, I urge our Members to support this excellent resolution.

Mr. MENENDEZ. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New Jersey [Mr. PAYNE], a member of the Subcommittee on Africa.

Mr. PAYNE. Mr. Speaker, let me first commend the gentleman from California [Mr. ROYCE], the chairman of the Subcommittee on Africa, and the gentleman from New Jersey [Mr. MENENDEZ], the ranking member, for the outstanding work that they have done on this resolution. The Western Sahara has been a point of contention for some time now. The final outcome for this former Spanish colony will be historic and a momentous occasion. It will set a precedent for many other issues of self-determination throughout the world, such as Cyprus and Northern Ireland. This is a major accomplishment. We should commend the former Secretary of State James Baker, the Polisario Front and representatives of Morocco for coming to the table to decide on a referendum on the future of this disputed territory. The referendum originally scheduled for January 1992 is to decide whether Western Sahara should be incorporated into Morocco or become an independent nation as many of the Sahrawi people have fought for for many years. I am glad to see the culmination of the identification process which first started in 1984. I also want to congratulate the Secretary-General of the United Nations Kofi Annan for his role in urging negotiations in this region. Let me say that I think that now the playing field has

been leveled, where all will have access to the media, to the press, and that international observers will be able to participate in the proceedings. All of these very important issues have been worked out. This is a step in the right direction.

As we see democracy spreading throughout the continent of Africa, where only a few countries are left in dispute at this time, I think that it is good to see another nation coming to the front where the question which has long besieged them and has been a problem may be finally worked out. Once again I urge my colleagues to support this resolution.

Mr. ROYCE. Mr. Speaker, I yield myself such time as I may consume. In closing, let me commend the gentleman from New Jersey [Mr. MENENDEZ], the ranking member of the Subcommittee on Africa, who has worked with us on this resolution. We have worked together on several measures throughout the year. I would also like to commend Special Envoy James Baker for his work. Morocco is a long-time ally and the United States has been improving relations with Algeria, which supports the Polisario Front.

The issue of self-determination for Western Sahara poses a danger of instability for the northwest African region. The issue must be resolved so that the likelihood of long-term problems there is diminished. Peace in Western Sahara will allow for economic development and democratization in the region and could be a beneficial example for other nations in North Africa and the Middle East. That is the purpose of this resolution.

Mr. Speaker, I yield back the balance of my time.

Mr. MENENDEZ. Mr. Speaker, I urge my colleagues to adopt the resolution, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. LAZIO of New York). The question is on the motion offered by the gentleman from California [Mr. ROYCE] that the House suspend the rules and agree to the resolution, House Resolution 245, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

#### FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate has passed with amendments in which the concurrence of the House is requested, A bill of the House of the following title:

H.R. 2607. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole

or in part against the revenues of said District for the fiscal year ending September 30, 1998, and for other purposes.

The message also announced, that the Senate insists upon its amendments to the bill (H.R. 2607) "An Act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1998, and for the purposes.", requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. STEVENS, Mr. SPECTER, Mr. DOMENICI, Mr. MCCONNELL, Mr. SHELBY, Mr. GREGG, Mr. BENNETT, Mr. CAMPBELL, Mr. FAIRCLOTH, Mrs. HUTCHISON, Mr. COCHRAN, Mr. BYRD, Mr. INOUE, Mr. HOLLINGS, Mr. LEAHY, Mr. BUMPERS, Mr. LAUTENBERG, Mr. HARKIN, Ms. MIKULSKI, Mrs. MURRAY, and Mrs. BOXER, to be the conferees on the part of the Senate.

#### EXPRESSING CONCERN FOR HUMAN RIGHTS IN AFGHANISTAN

Mr. ROHRBACHER. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 156) expressing concern for the continued deterioration of human rights in Afghanistan and emphasizing the need for a peaceful political settlement in that country, as amended.

The Clerk read as follows:

##### H. CON. RES. 156

Whereas Congress recognizes that the legacy of civil conflict in Afghanistan during the last 17 years has had a devastating effect on the civilian population in that country, killing 2,000,000 people and displacing more than 7,000,000, and has had a particularly negative impact on the rights and security of women and girls;

Whereas the Department of State's Country Reports on Human Practices for 1996 states: "Serious human rights violations continue to occur [ . . . ] political killings, torture, rape, arbitrary detention, looting, abductions and kidnappings for ransom were committed by armed units, local commanders and rogue individuals.";

Whereas the Afghan combatants are responsible for numerous abhorrent human rights abuses, including the rape, sexual abuse, torture, abduction, and persecution of women and girls;

Whereas drug proliferation has increased in Afghanistan;

Whereas Congress is disturbed by the upsurge of reported human rights abuses in Afghanistan, including extreme restrictions placed on women and girls;

Whereas safe haven has been provided to suspected terrorists and terrorist camps may be allowed to operate in Afghanistan;

Whereas Afghanistan is a sovereign nation and must work to solve its internal disputes; and

Whereas Afghanistan and the United States recognize international human rights conventions, such as the Universal Declaration on Human Rights, which espouse respect for basic human rights of all individuals without regard to race, religion, ethnicity, or gender: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring),

##### SECTION 1. DECLARATION OF POLICY.

The Congress hereby—

(1) deplors the violations of international humanitarian law in Afghanistan and raises

concern over the reported cases of stoning, public executions, and street beatings;

(2) condemns the targeted discrimination against women and girls and expresses deep concern regarding the prohibition of employment and education for women and girls;

(3) urges the Taliban and all other parties in Afghanistan to cease providing safe haven to suspected terrorists or permitting Afghan territory to be used for terrorist training; and

(4) takes note of the continued armed conflict in Afghanistan, affirms the need for peace negotiations and expresses hope that the Afghan parties will agree to a cease-fire throughout the country.

##### SEC. 2. SENSE OF THE CONGRESS.

It is the sense of Congress that the President—

(1) should continue to monitor the human rights situation in Afghanistan and should call for adherence by all factions in Afghanistan to international humanitarian law;

(2) should call for an end to the systematic discrimination and harassment of women and girls in Afghanistan;

(3) should encourage efforts to procure a durable peace in Afghanistan and should support the efforts of the United Nations Special Envoy Secretary General Lakhdar Brahimi to assist in brokering a peaceful resolution to years of conflict;

(4) should call upon all countries with influence to use their influence on the contending factions to end the fighting and come to the negotiating table, abide by internationally recognized norms of behavior, cease human rights violations, end provision of safe haven to terrorists and close terrorist training camps, and reverse discriminatory policies against women and girls;

(5) should call upon all nations to cease providing financial assistance, arms, and other kinds of support to the militaries or political organizations of any factions in Afghanistan; and

(6) should support efforts by Afghan individuals to establish a cessation of hostilities and a transitional multiparty government leading to freedom, respect for human rights, and free and fair elections.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. ROHRBACHER] and the gentleman from Minnesota [Mr. LUTHER] each will control 20 minutes.

The Chair recognizes the gentleman from California [Mr. ROHRBACHER].

Mr. ROHRBACHER. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. GILMAN], the chairman of the Committee on International Relations and someone who has given us great inspiration to stand up for the higher ideals that America stands for.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding me this time. Mr. Speaker, I want to commend the sponsors of this resolution, the gentleman from Nebraska [Mr. BEREUTER], the gentleman from California [Mr. BERMAN], the gentleman from California [Mr. ROHRBACHER], and especially the gentlewoman from New York [Mrs. MALONEY] for her excellent work in crafting this proposal.

The deterioration of human rights in Afghanistan, especially its impact on women, is very distressing. Large areas

of Afghanistan that are now under the Taliban rule are being run by men whose thinking is medieval. Regrettably, the State Department has done little to end the fighting that has led to the current problems in Afghanistan.

Two weeks ago, the gentleman from California [Mr. ROHRBACHER] did what the State Department could not or cared not to do. He brought together in Istanbul almost all of the leaders in the different Afghan groups so that some sort of a national reconciliation process could begin. The gentleman from California then arranged for them to come to Washington so that our Committee on International Relations could meet with them to learn firsthand about that historic productive meeting.

House Concurrent Resolution 156 will assist us in the peace process. I urge my colleagues to support this resolution. I want to commend the gentleman from California [Mr. ROHRBACHER] for his continuing efforts in trying to bring peace to Afghanistan.

Mr. ROHRBACHER. Mr. Speaker I yield myself such time as I may consume.

Mr. Speaker, more than a million Afghans died and 5 million became refugees during the battle that was a turning point in the Cold War. They brought down the Soviet empire. Their courage and sacrifice reaped a harvest of peace and plenty for the Western world. However, in Afghanistan, the war never ended. The social and political fabric of that ancient culture remains in chaos. People today in Afghanistan are dying from both violence and starvation. House Concurrent Resolution 156 introduced by the gentleman from New York [Mrs. MALONEY] urges the President to, No. 1, monitor and condemn ongoing violations of human rights caused by the fanatical Taliban movement who controls about two-thirds of the country as well as abuses by the other factions and other militias. It especially calls attention to the brutal and systematic discrimination that the Taliban have imposed on women and children in Afghanistan.

In addition, this bill requests that the President should call upon the government of Pakistan to suspend military and political support of the Taliban and to use its influence with the Taliban to end the abuses that we have been describing tonight. It urges the President to support international efforts intended to create a peaceful resolution to the ongoing conflict in Afghanistan that would ultimately include free and fair elections and the return of human and civil rights for all the people of Afghanistan. Stability in Afghanistan is the key to peace and prosperity in Central Asia. The extremists of the Taliban movement are responsible for the ongoing suffering of the Afghan people, and they pose a

great threat of fundamentalist violence in neighboring countries, especially in Pakistan, and their extremism permits Iran to have a greater role in the region.

The Taliban currently provides a haven for terrorists such as Ben Ladin of Saudi Arabia, and the training of terrorist organizations now operating in Egypt, the Balkans and the Philippines. According to both the United Nations and the United States Drug Enforcement Agency, they have turned Afghanistan into the world's leading opium producer. The Taliban's war effort is funded by opium profits. According to the United States and international sources, almost all the opium production and processing being conducted in Afghanistan is in the provinces controlled by the Taliban, especially near their stronghold in Kandahar. According to the United Nations Drug Control Program, in 1997, Afghanistan produced a record 3,000 tons of opium. That is a 25 percent increase over the 1996 production. In 1996, the Taliban imposed 10 percent tax on all opium produced in Afghanistan which, according to experts of the United States Drug Enforcement Agency and the CIA, amounts to at least \$100 million. That is drug money that they are making which comes straight from the drug producers to the pockets of the Taliban.

During the last 10 years, I have had extensive discussions with all factions of Afghanistan as well as ordinary Afghan citizens. Although not spelled out in this legislation before us, I believe it is time for this administration to support recent resolutions by Afghans of all ethnic groups that emphasize that the key to ending the conflict in Afghanistan is the return of King Zahir Shah. As the symbolic head of an interim government, Zahir Shah could remake civil government, form a coalition government of national unity which would represent all factions. This reconciliation government would be responsible to prepare national democratic elections in which the people of Afghanistan would choose their own leaders and democracy.

I can assure my colleagues tonight the people of Afghanistan are not fanatics, but they are devout in their religious faith. Most Muslims are embarrassed by the Taliban. But if we would help the true believers in Islam in Afghanistan regain a democratic government, it would lead to peace and it would lead to a restoration of human rights. King Zahir Shah offers that alternative.

Although it is not in this resolution, we hope that the President would follow through and do what he can to bring peace and democracy, which are synonymous in Afghanistan.

House Concurrent resolution 156 urges the President to support the internal Afghan peace process. It is espe-

cially timely, as Secretary of State Madeleine Albright will be departing for South Asia next week, that she express a new administration policy that would compel all neighboring countries involved in supporting the Taliban to immediately stop.

Mr. Speaker, we owe a tremendous debt to the people of Afghanistan. It was not our mighty armies in Europe that stopped the Soviet empire from expanding. It was not our missiles, it was not the great expenditure of defense. Yes, they were necessary at the time in order to deter war with the Soviet empire. But it was a group of Muslims on the plains of Afghanistan that courageously stood up and said, you will not impose your atheistic system on us, you will not dominate our country, and with great courage and dying in the hundreds of thousands stood firm against Soviet aggression and broke the will of the Soviet bosses to conquer the world. We owe a great deal to these heroic people. It is sad and tragic that fanatics have taken over their country. It is time for the United States to reach out and do what we can to promote democracy and human rights in Afghanistan. We owe it to them not to forget them. If we do, if we forget the chaos that continues and the bloodshed and we refuse to pay our debt to the people of Afghanistan, in the end it will come back and hurt us. There will be no stability in Central Asia as long as the chaos and killing continues in Afghanistan.

Mr. Speaker, I reserve the balance of my time.

Mr. LUTHER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from New York [Mrs. MALONEY], the original sponsor of the resolution.

□ 2100

Mrs. MALONEY of New York. Mr. Speaker, I thank the gentleman for yielding this time to me, and I thank the gentleman from New York [Mr. GILMAN] for bringing this legislation forward under the suspension calendar, and I thank the gentleman from California [Mr. ROHRBACHER] for his leadership not only on this legislation, but really his ongoing efforts for many years to bring peace and democracy to Afghanistan.

A woman living in Afghanistan may not work, attend school, be photographed, or appear in public without a garment covering their entire body. They must wear a mesh mask over their eyes, they must not speak directly to a man. Certainly there is no possibility of a woman speaking out against these human rights abuses in a public forum as I am now.

That is why we must speak for them, and that is why we must pass this resolution which condemns the continued deterioration of women's rights in that country.

More than a year ago the Taliban, a fundamentalist Islamic militia group, overthrew the government of Afghanistan. Women and young girls have borne the brunt of that takeover. The Taliban has not just stripped women of their human rights, they have made women targets for criminal abuse.

Just 2 months ago, a 16-year-old girl was stoned to death because she was traveling with a man who was not a member of her family. Just last week, one of my constituents, who is a refugee from Afghanistan, told me that her 13-year-old niece was shot dead in the street for going to school. Women are routinely raped and abused. They are persecuted for the smallest infraction; for example, allowing their ankles to be exposed or appearing in a photograph.

Women cannot receive proper emergency medical care. I read recently of the case of one woman who had been severely burned. She was refused treatment because it was against the Taliban law for her to remove her clothing for treatment.

Women are not permitted to work. At one time women made up a large part of the work force. Now many hospitals and schools are closed for lack of employees. The war in Afghanistan has left many women widows. If they cannot work, how are they to support themselves and their children? Many are starving to death.

Perhaps the abuse that makes me the most sad is the idea that young girls, young women, are not permitted to go to school. What does it say about the future of this country? How can women recover from years of abuse and forced ignorance?

I urge my colleagues to vote for House Resolution 156. We must speak out for these women who are being so horribly abused because they cannot speak out for themselves.

I would also like to add my words of encouragement to Madeleine Albright, who will be traveling to this region and encouraging other surrounding countries to speak out against the Taliban.

Mr. LUTHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support this resolution, and I urge its speedy adoption this evening.

This resolution represents a constructive effort to deal with a very serious problem. Afghanistan and its people have suffered through foreign invasions, civil war and widespread human rights abuses virtually nonstop for nearly 20 years. Today outrageous human rights violations continue to occur, especially against the women and girls of that country. We in America must take every opportunity we have to deal with that and to put an end to those abuses of human dignity and international law.

The Afghan people who so courageously fought a key battle or conflict

in the cold war deserve to live a life of peace without the kind of abuse that is occurring today. I therefore urge the Members of this body to support this resolution which simply restates the simple truth of what is occurring there today and makes us and our country stand with the people against these abuses.

Mr. Speaker, I yield back the remainder of my time.

#### GENERAL LEAVE

Mr. ROHRBACHER. Mr. Speaker, I ask unanimous consent that all Members may have 5 days within which to revise and extend their remarks on this measure.

The SPEAKER pro tempore (Mr. LAZIO of New York). Is there objection to the request of the gentleman from California?

There was no objection.

Mr. ROHRBACHER. Mr. Speaker, I yield myself such time as I may consume.

Finally in closing, Mr. Speaker, I am pleased that we have this resolution tonight, and I would hope that those governments in Central Asia and around Afghanistan focus on what we are trying to do in the United States tonight. Tonight we are taking the first steps towards reinvolving ourselves in a part of the world that the United States walked away from 10 years ago.

When the Soviet Union was finally defeated in Afghanistan and the last Soviet tanks went across the bridge back into what was then the Soviet Union, the United States breathed a sigh of relief, and we believed that the fighting there would be over very quickly and shortly. Instead, as I mentioned in my opening remarks, the war in Afghanistan which brought peace and prosperity to the Western world, continues in Afghanistan. Today we spend \$100 billion a year less on defense because these scraggly, ill-equipped, brave and courageous men in Afghanistan stood up to Soviet tanks and air power, and because they did, the Soviet role to keep control of what they held in the Soviet empire and to expand that empire was broken.

Yes, today we are able to spend those hundreds of billions of dollars, hundreds of billions of dollars that we are not spending on defense, we are able to bring that out of our deficit spending. We are able to spend that on education, we are able to spend that on making our own lives, an infrastructure, making the lives of our country better so that our children live better lives.

But what has happened in Afghanistan during that time period as we have enjoyed this era of goodwill in the United States? What has happened there, as the gentlewoman from New York [Mrs. MALONEY] has suggested, a horrible darkness of oppression has come down on half of their population. Women in Afghanistan are oppressed and treated just as, and I hate to use

this example, but the fact is the Taliban are to the women of Afghanistan and the women of the world what Hitler was to the Jews of the world in the 1930's. The Taliban and their philosophy would rally people to repress women and children in their society. We heard examples of that tonight.

What else is happening in Afghanistan? Every day a child, if not many children, are blown to bits, their legs are blown off because of landmines that are planted by the millions, and many of those landmines came from the United States of America. Many of them were given by us to the various factions during the war to defeat the Russians. But yet those children are still being blown apart, and chaos still rules the day.

In Afghanistan the Taliban militias still fight northern power groups that do not agree with their brand of Islam and refuse to be dominated by a Pushtu versus a Tajik, and the killing goes on and on. It goes on for one reason, because we in the United States, the new superpower that supposedly is going to be the force for power and good in this world, have totally walked away from these people to whom we owe so much, people who permitted us to be spending tens of billions of dollars on our education rather than on defense, people who helped bring down the Soviet empire, thus making it no longer necessary for us to spend money on missiles so we could spend it instead on health care and education and infrastructure and bringing down our level of deficit spending.

This resolution tonight underscores that America will no longer close our eyes, that this Congress is no longer closing its eyes to the repression of women and children in Afghanistan, the killing and the maiming of children in Afghanistan, the ongoing chaos.

No. 1, that is the moral position to take, and that is what this resolution says; but, No. 2, let us remember the practical end of it. And I found a funny thing in my years in public service: When we do something, when we ignore the moral course of action, we also are going down a road of something that is not practical. There is a relationship between a practical policy and a moral policy. If we walk away from these people and let them fend for themselves with this brutality and tyranny, with maiming of their children and the repression of their women, what will happen? The chaos will continue in Afghanistan, and I can assure all of my friends here today, all of my friends here today, that Central Asia, which should become an intricate part of the economic system of the world will eventually be engulfed in that same chaos.

Pakistan, who has been a pillar, a pillar of stability in South Asia, our friend will go under, because if we permit the fanaticism of the Taliban to go

on, it will bring down Pakistan just as billions of dollars of drug money going into the hands of narcoterrorists in Afghanistan, in a chaotic Afghanistan, will eventually wreak havoc in the United States. It has already caused the lives of American servicemen and people to be lost. A terrorist trained in Afghanistan helped blow up a building which housed our military people in Saudi Arabia. There was an assassination attempt on the Pope. They found out that the terrorist who was going to assassinate the Pope was trained in Afghanistan.

We cannot let this go on, because not only is it immoral to let this go on, but practically speaking, if we do it, it will come back and hurt us.

There are many ways that we can try to reach peace. Having been involved in this process, I believe King Zahir Shah, the king in exile, who is a moderate leader of his people, a moderate Muslim leader, a devout Muslim, but not a fanatic, will bring back sanity to his country. Zahir Shah has pledged to his people to restore civil government, rebuild the infrastructure and create the basis for democratic elections. And in democratic elections I believe the courage and the honor of the Afghan people will come out over the fanaticism of the Taliban. I have no doubt about that.

And I would like to close with a short story. Many people in this body do not know right after I was elected what I did. Many of my friends and colleagues after they got elected the very first time took off and went golfing or went swimming or went hiking and just got away from it all because the first election is usually the hardest election for this body. I made a pledge to my friends in Afghanistan, because I worked with them when I worked in the White House, that when I left, when I left the White House, if I had a chance and if the battle in Afghanistan was still going on, that I would join them in their struggle.

So I had 2 months between the time that I was elected and the time that I would be sworn in as a Congressman, and I knew that that was the only time that I would be free again like that for the rest of my life, or at least the rest of my time when I would be elected in Congress. So I disappeared, and I ended up with a mujahedin unit in Afghanistan fighting in the battle of Jalalabad, which was then under siege. And as I hiked toward this battle, which was one of the most strenuous hikes, I might add, that I have ever made in my entire life, and it was just beyond any endurance that I could ever do today, but a young Afghan boy, it was a full moon, and the artillery shells were exploding in the distance and lighting up the skies, and it was about 15 mujahedin with me armed with AK-47s and RPGs, just lightly armed, and a young boy who was probably 17 years

old ran up besides me, AK-47 slung over his shoulder, and said, "You come from America."

And I said, "Yes."

He said, "You are in politics in America."

And I said, "Yes, I am."

He said, "Are you a donkey or an elephant?"

Here is a young man, 17 years old, fighting for his country, fighting for our country, fighting for the people of the West, fighting for his religion, a brave and courageous young man, and I said "What do you want to do when this is all over?"

□ 2115

He says "I want to build things. I would like to be an architect."

I do not know if that young man survived the battle. I do not know if he did or not. But I know if he is given his chance, he will rebuild his country. I know he is a brave and courageous young person who believed so much in the United States that he knew the symbols of our political structure. He wanted democracy for his own country, but when the Soviets were defeated, we walked away.

Let us reestablish this commitment to the Afghan people, at the very least, to reach out and provide some leadership, to help them attain their own democracy, and, if they obtain democracy, perhaps through some support and guidance from their former king, it will be just as their struggle against communism, a benefit to us as well.

So tonight that is what this resolution is all about. I would ask my colleagues to join me in taking this moral stand and repaying this sacred debt to the people of Afghanistan.

The SPEAKER pro tempore (Mr. LAZIO of New York). All time has expired.

The question is on the motion offered by the gentleman from California [Mr. ROHRBACHER] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 156, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the concurrent resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

#### SAVINGS ARE VITAL TO EVERYONE'S RETIREMENT ACT OF 1997

Mr. FAWELL. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 1377) to amend title I of the Employee Retirement Income Security Act of 1974 to encourage retirement income savings.

The Clerk read as follows:

Senate amendment:

Strike out all after the enacting clause and insert:

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Savings Are Vital to Everyone's Retirement Act of 1997".

#### SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds as follows:

(1) The impending retirement of the baby boom generation will severely strain our already overburdened entitlement system, necessitating increased reliance on pension and other personal savings.

(2) Studies have found that less than a third of Americans have even tried to calculate how much they will need to have saved by retirement, and that less than 20 percent are very confident they will have enough money to live comfortably throughout their retirement.

(3) A leading obstacle to expanding retirement savings is the simple fact that far too many Americans—particularly the young—are either unaware of, or without the knowledge and resources necessary to take advantage of, the extensive benefits offered by our retirement savings system.

(b) PURPOSE.—It is the purpose of this Act—

(1) to advance the public's knowledge and understanding of retirement savings and its critical importance to the future well-being of American workers and their families;

(2) to provide for a periodic, bipartisan national retirement savings summit in conjunction with the White House to elevate the issue of savings to national prominence; and

(3) to initiate the development of a broad-based, public education program to encourage and enhance individual commitment to a personal retirement savings strategy.

#### SEC. 3. OUTREACH BY THE DEPARTMENT OF LABOR.

(a) IN GENERAL.—Part 5 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1131 et seq.) is amended by adding at the end the following new section:

"OUTREACH TO PROMOTE RETIREMENT INCOME SAVINGS

"SEC. 516. (a) IN GENERAL.—The Secretary shall maintain an ongoing program of outreach to the public designed to effectively promote retirement income savings by the public.

"(b) METHODS.—The Secretary shall carry out the requirements of subsection (a) by means which shall ensure effective communication to the public, including publication of public service announcements, public meetings, creation of educational materials, and establishment of a site on the Internet.

"(c) INFORMATION TO BE MADE AVAILABLE.—The information to be made available by the Secretary as part of the program of outreach required under subsection (a) shall include the following:

"(1) a description of the vehicles currently available to individuals and employers for creating and maintaining retirement income savings, specifically including information explaining to employers, in simple terms, the characteristics and operation of the different retirement savings vehicles, including the steps to establish each such vehicle, and

"(2) information regarding matters relevant to establishing retirement income savings, such as—

"(A) the forms of retirement income savings,

"(B) the concept of compound interest,

"(C) the importance of commencing savings early in life,

"(D) savings principles,

"(E) the importance of prudence and diversification in investing,

"(F) the importance of the timing of investments, and

"(G) the impact on retirement savings of life's uncertainties, such as living beyond one's life expectancy.

"(d) ESTABLISHMENT OF SITE ON THE INTERNET.—The Secretary shall establish a permanent

site on the Internet concerning retirement income savings. The site shall contain at least the following information:

"(1) a means for individuals to calculate their estimated retirement savings needs, based on their retirement income goal as a percentage of their preretirement income;

"(2) a description in simple terms of the common types of retirement income savings arrangements available to both individuals and employers (specifically including small employers), including information on the amount of money that can be placed into a given vehicle, the tax treatment of the money, the amount of accumulation possible through different typical investment options and interest rate projections, and a directory of resources of more descriptive information;

"(3) materials explaining to employers in simple terms, the characteristics and operation of the different retirement savings arrangements for their workers and what the basic legal requirements are under this Act and the Internal Revenue Code of 1986, including the steps to establish each such arrangement;

"(4) copies of all educational materials developed by the Department of Labor, and by other Federal agencies in consultation with such Department, to promote retirement income savings by workers and employers; and

"(5) links to other sites maintained on the Internet by governmental agencies and non-profit organizations that provide additional detail on retirement income savings arrangements and related topics on savings or investing.

"(e) COORDINATION.—The Secretary shall coordinate the outreach program under this section with similar efforts undertaken by other public and private entities."

(b) CONFORMING AMENDMENT.—The table of contents in section 1 of such Act is amended by inserting after the item relating to section 514 the following new items:

"Sec. 515. Delinquent contributions.

"Sec. 516. Outreach to promote retirement income savings."

#### SEC. 4. NATIONAL SUMMIT ON RETIREMENT SAVINGS.

(a) IN GENERAL.—Part 5 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, as amended by section 3 of this Act, is amended by adding at the end the following new section:

##### "NATIONAL SUMMIT ON RETIREMENT SAVINGS

"SEC. 517. (a) AUTHORITY TO CALL SUMMIT.—Not later than July 15, 1998, the President shall convene a National Summit on Retirement Income Savings at the White House, to be co-hosted by the President and the Speaker and the Minority Leader of the House of Representatives and the Majority Leader and Minority Leader of the Senate. Such a National Summit shall be convened thereafter in 2001 and 2005 on or after September 1 of each year involved. Such a National Summit shall—

"(1) advance the public's knowledge and understanding of retirement savings and its critical importance to the future well-being of American workers and their families;

"(2) facilitate the development of a broad-based, public education program to encourage and enhance individual commitment to a personal retirement savings strategy;

"(3) develop recommendations for additional research, reforms, and actions in the field of private pensions and individual retirement savings; and

"(4) disseminate the report of, and information obtained by, the National Summit and exhibit materials and works of the National Summit.

"(b) PLANNING AND DIRECTION.—The National Summit shall be planned and conducted under the direction of the Secretary, in consultation

with, and with the assistance of, the heads of such other Federal departments and agencies as the President may designate. Such assistance may include the assignment of personnel. The Secretary shall, in planning and conducting the National Summit, consult with the congressional leaders specified in subsection (e)(2). The Secretary shall also, in carrying out the Secretary's duties under this subsection, consult and coordinate with at least one organization made up of private sector businesses and associations partnered with Government entities to promote long-term financial security in retirement through savings.

"(c) PURPOSE OF NATIONAL SUMMIT.—The purpose of the National Summit shall be—

"(1) to increase the public awareness of the value of personal savings for retirement;

"(2) to advance the public's knowledge and understanding of retirement savings and its critical importance to the future well-being of American workers and their families;

"(3) to facilitate the development of a broad-based, public education program to encourage and enhance individual commitment to a personal retirement savings strategy;

"(4) to identify the problems workers have in setting aside adequate savings for retirement;

"(5) to identify the barriers which employers, especially small employers, face in assisting their workers in accumulating retirement savings;

"(6) to examine the impact and effectiveness of individual employers to promote personal savings for retirement among their workers and to promote participation in company savings options;

"(7) to examine the impact and effectiveness of government programs at the Federal, State, and local levels to educate the public about, and to encourage, retirement income savings;

"(8) to develop such specific and comprehensive recommendations for the legislative and executive branches of the Government and for private sector action as may be appropriate for promoting private pensions and individual retirement savings; and

"(9) to develop recommendations for the coordination of Federal, State, and local retirement income savings initiatives among the Federal, State, and local levels of government and for the coordination of such initiatives.

"(d) SCOPE OF NATIONAL SUMMIT.—The scope of the National Summit shall consist of issues relating to individual and employer-based retirement savings and shall not include issues relating to the old-age, survivors, and disability insurance program under title II of the Social Security Act.

"(e) NATIONAL SUMMIT PARTICIPANTS.—

"(1) IN GENERAL.—To carry out the purposes of the National Summit, the National Summit shall bring together—

"(A) professionals and other individuals working in the fields of employee benefits and retirement savings;

"(B) Members of Congress and officials in the executive branch;

"(C) representatives of State and local governments;

"(D) representatives of private sector institutions, including individual employers, concerned about promoting the issue of retirement savings and facilitating savings among American workers; and

"(E) representatives of the general public.

"(2) STATUTORILY REQUIRED PARTICIPATION.—The participants in the National Summit shall include the following individuals or their designees:

"(A) the Speaker and the Minority Leader of the House of Representatives;

"(B) the Majority Leader and the Minority Leader of the Senate;

"(C) the Chairman and ranking Member of the Committee on Education and the Workforce of the House of Representatives;

"(D) the Chairman and ranking Member of the Committee on Labor and Human Resources of the Senate;

"(E) the Chairman and ranking Member of the Special Committee on Aging of the Senate;

"(F) the Chairman and ranking Member of the Subcommittees on Labor, Health and Human Services, and Education of the Senate and House of Representatives; and

"(G) the parties referred to in subsection (b).

"(3) ADDITIONAL PARTICIPANTS.—

"(A) IN GENERAL.—There shall be not more than 200 additional participants. Of such additional participants—

"(i) one-half shall be appointed by the President, in consultation with the elected leaders of the President's party in Congress (either the Speaker of the House of Representatives or the Minority Leader of the House of Representatives, and either the Majority Leader or the Minority Leader of the Senate); and

"(ii) one-half shall be appointed by the elected leaders of Congress of the party to which the President does not belong (one-half of that allotment to be appointed by either the Speaker of the House of Representatives or the Minority Leader of the House of Representatives, and one-half of that allotment to be appointed by either the Majority Leader or the Minority Leader of the Senate).

"(B) APPOINTMENT REQUIREMENTS.—The additional participants described in subparagraph (A) shall be—

"(i) appointed not later than January 31, 1998;

"(ii) selected without regard to political affiliation or past partisan activity; and

"(iii) representative of the diversity of thought in the fields of employee benefits and retirement income savings.

"(4) PRESIDING OFFICERS.—The National Summit shall be presided over equally by representatives of the executive and legislative branches.

"(f) NATIONAL SUMMIT ADMINISTRATION.—

"(1) ADMINISTRATION.—In administering this section, the Secretary shall—

"(A) request the cooperation and assistance of such other Federal departments and agencies and other parties referred to in subsection (b) as may be appropriate in the carrying out of this section;

"(B) furnish all reasonable assistance to State agencies, area agencies, and other appropriate organizations to enable them to organize and conduct conferences in conjunction with the National Summit;

"(C) make available for public comment a proposed agenda for the National Summit that reflects to the greatest extent possible the purposes for the National Summit set out in this section;

"(D) prepare and make available background materials for the use of participants in the National Summit that the Secretary considers necessary; and

"(E) appoint and fix the pay of such additional personnel as may be necessary to carry out the provisions of this section without regard to provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

"(2) DUTIES.—The Secretary shall, in carrying out the responsibilities and functions of the Secretary under this section, and as part of the National Summit, ensure that—

"(A) the National Summit shall be conducted in a manner that ensures broad participation of Federal, State, and local agencies and private organizations, professionals, and others involved in retirement income savings and provides a strong basis for assistance to be provided under paragraph (1)(B);

"(B) the agenda prepared under paragraph (1)(C) for the National Summit is published in the Federal Register; and

"(C) the personnel appointed under paragraph (1)(E) shall be fairly balanced in terms of points of views represented and shall be appointed without regard to political affiliation or previous partisan activities.

"(3) NONAPPLICATION OF FACA.—The provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the National Summit.

"(g) REPORT.—The Secretary shall prepare a report describing the activities of the National Summit and shall submit the report to the President, the Speaker and Minority Leader of the House of Representatives, the Majority and Minority Leaders of the Senate, and the chief executive officers of the States not later than 90 days after the date on which the National Summit is adjourned.

"(h) DEFINITION.—For purposes of this section, the term 'State' means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, and any other territory or possession of the United States.

"(i) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There is authorized to be appropriated for fiscal years beginning on or after October 1, 1997, such sums as are necessary to carry out this section.

"(2) AUTHORIZATION TO ACCEPT PRIVATE CONTRIBUTIONS.—In order to facilitate the National Summit as a public-private partnership, the Secretary may accept private contributions, in the form of money, supplies, or services, to defray the costs of the National Summit.

"(j) FINANCIAL OBLIGATION FOR FISCAL YEAR 1998.—The financial obligation for the Department of Labor for fiscal year 1998 shall not exceed the lesser of—

"(1) one-half of the costs of the National Summit; or

"(2) \$250,000.

The private sector organization described in subsection (b) and contracted with by the Secretary shall be obligated for the balance of the cost of the National Summit.

"(k) CONTRACTS.—The Secretary may enter into contracts to carry out the Secretary's responsibilities under this section. The Secretary shall enter into a contract on a sole-source basis to ensure the timely completion of the National Summit in fiscal year 1998."

(b) CONFORMING AMENDMENT.—The table of contents in section 1 of such Act, as amended by section 3 of this Act, is amended by inserting after the item relating to section 516 the following new item:

"Sec. 517. National Summit on Retirement Savings."

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois [Mr. FAWELL] and the gentleman from New Jersey [Mr. PAYNE] each will control 20 minutes.

The Chair recognizes the gentleman from Illinois [Mr. FAWELL].

Mr. FAWELL. Mr. Speaker, I am very pleased to join with my colleague, the gentleman from New Jersey [Mr. PAYNE], the ranking Democrat on the Subcommittee on Employer-Employee Relations, as well as many other Democrats and Republicans across the political spectrum, in sponsoring the SAVER Act. H.R. 1377 represents bipartisan legislation addressing a critical national problem, the lack of individual retirement savings.

I do want to make special mention of the fact that the gentleman from New Jersey [Mr. PAYNE] has been very cooperative. We have worked together in good bipartisan fashion, and I do very much appreciate the gentleman from New Jersey and the fine work that he has put in on this legislation. Without the gentleman, there simply would not be any such legislation.

The SAVER Act was initially passed by the House back in May. On November 7, the Senate passed SAVER with minor modifications made to secure the support of the Department of Labor. I would like to thank Senate sponsor Senator CHARLES GRASSLEY, the chairman of the Committee on Aging, for his efforts in guiding this legislation through the other chamber.

The SAVER Act is truly a bipartisan initiative, supported not only by the Department of Labor, but also by a diverse group of organizations, from the U.S. Chamber of Commerce to the American Association of Retired Persons.

Mr. Speaker, America faces a ticking demographic time bomb that requires increased retirement savings. The Savings are Vital to Everyone's Retirement Act, or the SAVER Act, is the first step in defusing the retirement time bomb. The SAVER Act initiates projects to educate American workers about retirement savings and convenes a national summit on retirement savings at the White House.

Through this bill, we facilitate a public-private partnership to educate the public on this serious and underreported national problem. Workers need to know the importance of saving for the future and of saving as early in life as possible.

As a survey released this year by the Employee Benefit Research Institute, known as EBRI, reveals, there is a lot of work to be done. Less than one-third of Americans have even tried to calculate how much they need to have saved by retirement. Furthermore, less than 20 percent are very confident they will be able to have enough money to live comfortably throughout their retirement. The lack of adequate retirement savings will only become a more pressing problem as the baby-boomers begin to retire.

Far too few Americans, particularly the young, have either the knowledge or the resources necessary to take advantage of the extensive benefits offered by our retirement savings system. We know the old adage that you feed someone for life by teaching them to fish. We need to apply this principle to retirement savings.

The same EBRI survey found while only a quarter of workers express confidence in their ability to map out a savings strategy, an encouraging 50 percent said they would stick to a plan, if they only had one.

We have to find ways to get the information and the skills out to the work-

ers of America to harness this latent energy. The SAVER Act directs the Department of Labor to maintain an ongoing program of education and outreach to the public through public service announcements, public meetings, creation of educational materials, and establishment of a site on the Internet.

The information to be made available will include a means for individuals to calculate their estimated retirement savings needs, a plain English description of the common types of retirement savings arrangements currently available to both individuals and employers, and an explanation for employers, hopefully in simple terms, of how to establish different retirement savings arrangements for their workers.

The SAVER Act also convenes a national summit on retirement savings at the White House, cohosted by the executive and the legislative branches, to be held by July 15, 1998, and again in the year 2001, and again in the year 2005. The national summit would advance the public's knowledge and understanding of retirement savings and facilitate the development of a broad-based public education program, identify the barriers which hinder workers from setting aside adequate savings for retirement and impede employers, especially small employers, from assisting workers in accumulating retirement savings, and develop specific recommendations for legislative, executive, and private sector actions to promote retirement savings among American workers.

Mr. Speaker, the national summit would bring together experts in the field of employee benefits and retirement savings, key leaders of government, and interested parties from the private sector and the general public. The delegates would be selected by the congressional leadership and the President and would represent the diversity of thought in the field without regard to their political affiliation.

The national summit would be a public-private partnership receiving substantial funding from private sector contributions. I hope that the SAVER Act can be a first step in a truly bipartisan effort to reverse the long course of neglect of this vital issue and help American workers better prepare for a comfortable and a secure retirement.

I urge my colleagues to vote for passage of the SAVER Act and vote to help defuse the retirement time bomb.

Mr. Speaker, I reserve the balance of my time.

Mr. PAYNE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank you for this opportunity to speak to the importance of the SAVER Act. I think it will provide a big first step towards greater awareness about retirement security for all Americans.

I wish to commend Chairman FAWELL for his effort to bring to the attention

of all of us this very important issue that affects millions of Americans. This legislation has been skillfully moved through our subcommittee and the full committee, and I appreciate the chairman for his fine work on this very important piece of legislation.

I would also like to commend Senator JOHN BREAU from Louisiana who also worked on the other side of the House.

The retirement clock is running out, as has been mentioned by the chairman, for millions of Americans and their families. After a lifetime of hard work and contributing to and building our society, millions of older Americans have retired and are not prepared for it. We have always heard that the future belongs to those who are prepared for it. Many of our older Americans are not and will not be. They cannot afford to pay their bills.

While we have worked closely with the administration to make gains in strengthening protection for plan participants in the last 4 years, we still have miles to go in ensuring retirement security for the American work force.

Half of all older Americans have incomes of less than \$11,300. This is because their incomes are primarily drawn from Social Security, which on average pays \$8,460 to retired workers. That is less than today's minimum wage. Very little of their income comes from individual savings. A very alarming picture painted by the statistics is that many of the people we need to reach out to are women and minorities. As you know, there is a direct correlation between pension adequacy and the wages that workers receive. This is because many employers base their pension benefits on the worker's wages.

This is true with respect to defined contributions and defined benefit plans, including 401(k) plans. A very disturbing image forms when we begin to think about the retirement security of low-wage workers, particularly women and minorities. Many of these workers will never receive a pension. We know that less than half of all working women are covered by a pension. Those who are fortunate enough to be covered by a plan can expect to receive lower benefits in retirement because their wages were lower during the time they were working.

A recent study noted an alarming trend in private pension coverage among African American and Latino people. This study suggests that many minority workers will become strictly dependent on Social Security and have a shrinking chance to enjoy financially comfortable retirements.

Moreover, the report shows that the percentage of blacks covered by private pensions of all types plummeted from 45.1 percent in 1979 to 33.8 percent in 1993, only one-third of the population, while the Latino coverage fell from 37.7

percent to 24.6 percent, less than 25 percent, during that same period.

I am hopeful the SAVER Act will be successful in reaching these workers. Many of them live in my district, but let me point out, they do not all live in my district, they live in your hometowns too. They may even be your friends or members of your family. Millions of people will not have any significant retirement income beyond Social Security, which makes the Federal program even more critical, especially at a time when its fiscal future is being questioned.

While the baby-boom generation is on the eve of retirement, this statistical snapshot of the next generation of retirees is fueling the current debate about Social Security. I believe the provisions in the SAVER Act will provide more opportunities to better educate and prepare Americans for their retirement. Today, Mr. Chairman, I hope that this is the beginning of developing real solutions to problems that affect real people.

Mr. Speaker, I reserve the balance of my time.

Mr. FAWELL. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. GOODLING], the chairman of the Committee on Education and the Workforce.

Mr. GOODLING. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, we are here today to address in a bipartisan fashion the real demographic time bomb that faces the American work force, and I thank the gentleman from Illinois, our chairman [Mr. FAWELL], and the gentleman from New Jersey, the ranking member [Mr. PAYNE], for bringing this legislation before us.

Workers are not saving adequately for their retirement, and this problem will only become more profound as the baby-boom generation continues to age. It does not take a mathematician to recognize that in the future retiring Americans will have to rely less on Social Security and more on pensions and other personal savings.

□ 2130

Diffusing the retirement time bomb requires immediate action. Educating American workers is the critical first step. Savings are vital to everyone's Retirement Act of 1997, the SAVER Act is that step.

The SAVER Act initiates projects to educate American workers about retirement savings and convenes a national summit on retirement savings. I am pleased to join with my colleagues from across the aisle, both in this body and in the other body, to support this important initiative.

I am also pleased by the support of organizations representing the older Americans, the business community

and the financial community behind this public-private partnership.

Far too few workers, especially the young, understand the importance of saving for retirement. Many small businesses are confused as to how to set up some of the new retirement saving vehicles created by Congress, or they do not know how to go about encouraging their workers to take advantage of them.

The SAVER Act creates a statutory mandate for the Department of Labor to help inform American workers about retirement savings, to give them the tools they need to take advantage of the many existing benefits of our retirement system. The SAVER Act also hopes to focus greater public awareness on the lack of retirement savings by convening a national summit at the White House. The summit would be a bipartisan undertaking of both the executive and legislative branches and bring together employee benefit experts from throughout the country.

The SAVER Act seeks to enlist business and other concerned private groups as equal partners in this undertaking and looks to them to pick up their share of the tab as well. Ultimately, we all have a stake in the success of this project. Continuing to educate our workers is not only crucial to Americans having successful careers, it is also vital to ensuring they have secure retirements.

Mr. Speaker, I would also like to take this opportunity to say thank you to a longtime aide of mine who will be leaving the Committee on Education and the Workforce in the next few weeks. Randy Johnson has overseen, as our Workforce Policy Coordinator, all of the business, labor and workplace issues that have come before our committee since we have been in the majority. And for more than half a decade before that, he served as our labor counsel while we were in the minority.

Randy has been interested in labor issues since law school, when he researched the United Mine Workers contract negotiations. His ability to understand the negotiation process has served as well. Having worked in the Department of Labor before was a real plus for us. Both when we were in the minority and now, Randy has known how to stay true to his principles and yet accomplish our goals of reforming the American workplace. He has a keen understanding of the issues, an astute sense of timing, and a determination to achieve success. I and the rest of our majority Members could not have asked for a better staff member to lead the charge.

I will miss his quiet determination, his strong convictions to our Republican principles, and his hours and hours of dedication to advancing our agenda. We all wish him well and remind him he cannot come up and try to influence members of the committee for 1 year.

Mr. Speaker, I reserve the balance of my time.

Mr. PAYNE. Mr. Speaker, I yield 4 minutes to the gentleman from North Dakota [Mr. POMEROY].

Mr. POMEROY. Mr. Speaker, I want to thank the gentleman from Illinois [Mr. FAWELL], the chairman, and the gentleman from New Jersey [Mr. PAYNE], ranking member, for their work on this legislation. I am proud to be its cosponsor, and I think that as we enact this bill, we will be making a very positive contribution to what truly is one of our growing national matters of urgency: Retirement savings.

We are embarking, as we know, on an important debate on Social Security, but regardless of wherever that debate may take us, one thing is crystal clear. We have to save more. We have got to save more. Our savings rate is one-half of what it was in the post-World War II through 1980 period of time. If we think about the worker to retiree ratio, 42 workers per Social Security retiree in the 1940s, heading to 3 workers per retiree in 20 years, 2 workers per retiree in 30 years. It is just so clear, we have to save more.

Add in longevity. Unlike the 1930s, when Social Security came on line, now workers live, on average, 17 years longer in retirement than they did at that time. We have to save more. We will not be able to publicly fund our way out of this one. It is going to require a significant measure of personal responsibility for us all, and that is why this bill is so important.

A critical part of helping people achieve their goal of economic security in retirement is getting them on track with a savings plan to get them there, and let us face it. We can all use some help in that regard.

Education is a critical part of helping people understand the steps they must take now so that they have a secure retirement tomorrow. We know that in the workplace where there are work-based retirement savings plans and educational programs occurring in that place of employment, people attend, they respond, and it improves their savings program significantly. The problem is, less than half of all workers have work-based retirement savings plan, a goal we must work on. But in addition, we must, like this bill accomplishes, get the savings programs out to those not necessarily learning about savings at their workplace. This is going to advance retirement savings for everyone.

Charge the Labor Department to continue their good work. It will help us reach those that are not learning about retirement savings in their place of employment; it will charge the Labor Department to continue the work they are already advancing in education relative to retirement savings; it will convene the White House summits which

will focus national attention on this critical issue.

Mr. Speaker, in closing, I again want to thank the ranking member and the chairman. The chairman has indicated he will not be seeking reelection. His contributions, as those of us who know, who have served with him, will continue long after his presence is in this Chamber, and I would like to think that passing his legislation tonight will put on track an important course of education, leaving the chairman's imprint on our very positive step forward in the goal of retirement savings.

Mr. FAWELL. Mr. Speaker, I yield myself such time as I may consume. I thank the gentleman from North Dakota [Mr. POMEROY] for his fine comments and his contributions in the area of pensions.

I do want to say also, just briefly, the gentleman from Pennsylvania [Mr. GOODLING] mentioned Randy Johnson, who is actually seated right behind me here. We have worked together for quite a number of years, and this gentleman is in charge of the areas of labor law, which is something that puts a lot of people to sleep. We need a good lawyer with a good mind to keep track of all of the ins and outs of that area, and Randy has done that dutifully, and then going over into health care, the ERISA statute, which really puts people to sleep, and then into the pension area of the ERISA law.

All of this is very, very vital stuff, and when we have the kind of staff people like Randy Johnson, who, unfortunately, has been picked off by a head hunter, so he will be around in the Washington area. I think maybe after a year is over he probably is going to be coming back and visiting us and saying some things. I believe it is not out of order to say he is going with the National Chamber of Commerce, so we will probably be seeing him around and we wish him nothing but the very, very best. It was a great occasion, and I myself will be retiring. I trust that I have made retirement plans that I can cover those years of retirement.

Mr. Speaker, I yield back the balance of my time.

Mr. PAYNE. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland [Mr. CARDIN].

Mr. CARDIN. Mr. Speaker, let me thank my friend the gentleman from New Jersey [Mr. PAYNE] for yielding me this time.

I want to congratulate the gentleman from Illinois [Mr. FAWELL] and the gentleman from New Jersey [Mr. PAYNE] for bringing forward this bill. I think the title really says it all. The title: "Savings Are Vital to Everyone's Retirement."

For two decades we have seen America see savings rates lag far behind the industrial nations of this world. This is very troublesome to all of us as we look at the economic growth of our Na-

tion. In the last couple of years we have seen an encouraging sign, and that is the budget deficit of this country has gotten smaller, and the deficit was one of the major problems contributing to the low savings rates of our Nation. Low savings rates also present major problems for families looking ahead to retirement.

In recent years, many of us in Congress have worked on a bipartisan basis on creating new incentives to encourage Americans to save. I saw my friend the gentleman from Ohio [Mr. PORTMAN] on the floor a little bit earlier. He has worked on issues with me. We need to do more to encourage retirement savings in this Nation. We have to reverse the trend of less funds being put aside for retirement.

Those efforts have included major pension simplification legislation, including the creation of simple accounts to help small businesses create pension plans, and expansions of IRA accounts. While these legislative initiatives have begun to show benefits in expanding pension coverage and retirement savings, we must do more.

The backbone of our national retirement policy is the Social Security system. But the Social Security system in the long term has significant shortfalls in its funding. We must preserve the viability of Social Security, while encouraging Americans to augment their retirement savings outside of that program. The bill before us will help raise the visibility of this critical issue.

Under Secretary Hermann and former Secretary Reich, the Department of Labor has expanded its efforts to protect retirement savings of working Americans and to increase public awareness of the need to make adequate provisions for a secure retirement.

H.R. 1377 will strengthen those efforts by requiring a national summit on retirement savings to be held at the White House, which will provide the impetus for a full-blown national discussion on retirement policies.

Again, I commend the gentleman from Illinois [Mr. FAWELL], and I commend the gentleman from New Jersey [Mr. PAYNE]. This is important legislation, and I encourage my colleagues to support it.

Mr. PAYNE. Mr. Speaker, I yield myself such time as I may consume to say that I would like to once again thank the chairman for this very important legislation.

As a whole, Americans are motivated to set aside for their retirement. However, they are uninformed and uneducated in many instances about their options. Furthermore, many Americans nearing retirement are worried about whether or not the benefits they have been promised will be there when they retire. Corporate mergers and downsizing to meet the bottom line by encouraging early retirement

among older workers may compromise the integrity of these promised benefits. This is especially true among minority and women workers. Improving awareness and education is a good first step in reconciling the need of social insurance, providing social protection with individual responsibility.

Again, I applaud the gentleman from Illinois [Mr. FAWELL] for his leadership on this issue, and I look forward to working with him to provide retirement security for all Americans and their families. I too would like to wish him well in his retirement from this House for much of the outstanding work that he has done, and I urge my colleagues to support H.R. 1377, Savings Are Vital to Everyone's Retirement Act.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. LAZIO). All time has expired.

The question is on the motion offered by the gentleman from Illinois [Mr. FAWELL] that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 1377.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

#### GENERAL LEAVE

Mr. FAWELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the matter just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

#### FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed without amendment a joint resolution of the House of the following title:

H.J. Res. 104. Joint resolution making further continuing appropriations for the fiscal year 1998, and for other purposes.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 1502. An act entitled the "District of Columbia Student Opportunity Scholarship Act of 1997".

□ 2145

#### UNITED STATES FIRE ADMINISTRATION AUTHORIZATION ACT FOR FISCAL YEARS 1998 AND 1999

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and

pass the Senate bill (S. 1231) to authorize appropriations for fiscal years 1998 and 1999 for the United States Fire Administration, and for other purposes.

The Clerk read as follows:

S. 1231

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "United States Fire Administration Authorization Act for Fiscal Years 1998 and 1999".

#### SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

Section 17(g)(1) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2216(g)(1)) is amended—

(1) by striking "and" at the end of subparagraph (E);

(2) by striking the period at the end of subparagraph (F) and inserting a semicolon; and

(3) by adding at the end the following:

"(G) \$29,664,000 for the fiscal year ending September 30, 1998; and

"(H) \$30,554,000 for the fiscal year ending September 30, 1999."

#### SEC. 3. SUCCESSOR FIRE SAFETY STANDARDS.

The Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.) is amended—

(1) in section 29(a)(1), by inserting "or any successor standard to that standard" after "Association Standard 74";

(2) in section 29(a)(2), by inserting "or any successor standard to that standard" before "whichever is appropriate";

(3) in section 29(b)(2), by inserting "or any successor standard to that standard" after "Association Standard 13 or 13-R";

(4) in section 31(c)(2)(B)(i), by inserting "or any successor standard to that standard" after "Life Safety Code"; and

(5) in section 31(c)(2)(B)(ii), by inserting "or any successor standard to that standard" after "Association Standard 101".

#### SEC. 4. TERMINATION OR PRIVATIZATION OF FUNCTIONS.

(a) IN GENERAL.—Not later than 60 days before the termination or transfer to a private sector person or entity of any significant function of the United States Fire Administration, as described in subsection (b), the Administrator of the United States Fire Administration shall transmit to Congress a report providing notice of that termination or transfer.

(b) COVERED TERMINATIONS AND TRANSFERS.—For purposes of subsection (a), a termination or transfer to a person or entity described in that subsection shall be considered to be a termination or transfer of a significant function of the United States Fire Administration if the termination or transfer—

(1) relates to a function of the Administration that requires the expenditure of more than 5 percent of the total amount of funds made available by appropriations to the Administration; or

(2) involves the termination of more than 5 percent of the employees of the Administration.

#### SEC. 5. NOTICE.

(a) MAJOR REORGANIZATION DEFINED.—With respect to the United States Fire Administration, the term "major reorganization" means any reorganization of the Administration that involves the reassignment of more than 25 percent of the employees of the Administration.

(b) NOTICE OF REPROGRAMMING.—If any funds appropriated pursuant to the amend-

ments made by this Act are subject to a reprogramming action that requires notice to be provided to the Committees on Appropriations of the Senate and the House of Representatives, notice of that action shall concurrently be provided to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives.

(c) NOTICE OF REORGANIZATION.—Not later than 15 days before any major reorganization of any program, project, or activity of the United States Fire Administration, the Administrator of the United States Fire Administration shall provide notice to the Committees on Science and Appropriations of the House of Representatives and the Committees on Commerce, Science, and Transportation and Appropriations of the Senate.

#### SEC. 6. SENSE OF CONGRESS ON THE YEAR 2000 PROBLEM.

With the year 2000 rapidly approaching, it is the sense of Congress that the Administrator of the United States Fire Administration should—

(1) give high priority to correcting all 2-digit date-related problems in the computer systems of the United States Fire Administration to ensure that those systems continue to operate effectively in the year 2000 and in subsequent years;

(2) as soon as practicable after the date of enactment of this Act, assess the extent of the risk to the operations of the United States Fire Administration posed by the problems referred to in paragraph (1), and plan and budget for achieving compliance for all of the mission-critical systems of the system by the year 2000; and

(3) develop contingency plans for those systems that the United States Fire Administration is unable to correct by the year 2000.

#### SEC. 7. ENHANCEMENT OF SCIENCE AND MATHEMATICS PROGRAMS.

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term "Administrator, means the Administrator of the United States Fire Administration.

(2) EDUCATIONALLY USEFUL FEDERAL EQUIPMENT.—The term "educationally useful Federal equipment" means computers and related peripheral tools and research equipment that is appropriate for use in schools.

(3) SCHOOL.—The term "school" means a public or private educational institution that serves any of the grades of kindergarten through grade 12.

(b) SENSE OF CONGRESS.—

(1) IN GENERAL.—It is the sense of Congress that the Administrator should, to the greatest extent practicable and in a manner consistent with applicable Federal law (including Executive Order No. 12999), donate educationally useful Federal equipment to schools in order to enhance the science and mathematics programs of those schools.

(2) REPORTS.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Administrator shall prepare and submit to the President a report that meets the requirements of this paragraph. The President shall submit that report to Congress at the same time as the President submits a budget request to Congress under section 1105(a) of title 31, United States Code.

(B) CONTENTS OF REPORT.—The report prepared by the Administrator under this paragraph shall describe any donations of educationally useful Federal equipment to schools made during the period covered by the report.

**SEC. 8. REPORT TO CONGRESS.**

(a) **IN GENERAL.**—Not later than 180 days after the date of enactment of this Act, the Administrator of the United States Fire Administration (referred to in this section as the "Administrator") shall prepare and submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives a report that meets the requirements of this section.

(b) **CONTENTS OF REPORT.**—The report under this section shall—

(1) examine the risks to firefighters in suppressing fires caused by burning tires;

(2) address any risks that are uniquely attributable to fires described in paragraph (1), including any risks relating to—

(A) exposure to toxic substances (as that term is defined by the Administrator);

(B) personal protection;

(C) the duration of those fires; and

(D) site hazards associated with those fires;

(3) identify any special training that may be necessary for firefighters to suppress those fires; and

(4) assess how the training referred to in paragraph (3) may be provided by the United States Fire Administration.

The **SPEAKER pro tempore** (Mr. LAZIO of New York). Pursuant to the rule, the gentleman from Wisconsin [Mr. SENSENBRENNER] and the gentleman from Michigan [Mr. BARCIA] each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. SENSENBRENNER].

**GENERAL LEAVE**

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 1231.

The **SPEAKER pro tempore**. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Senate bill 1231, an act to authorize appropriations for the United States Fire Administration for the fiscal years 1998 and 1999, is nearly identical to H.R. 1272, a bill favorably reported by voice vote by the Committee on Science on April 16, 1997, and which was later passed by the full House by voice vote on April 23, 1997.

Senate bill 1231 is the result not only of a bipartisan effort, but also a bicameral effort to craft legislation that is in the national interest. This bill reauthorizes the programs and activities of the United States Fire Administration, a small but important organization within the Federal Emergency Management Agency.

The U.S. Fire Administration was created by Congress in 1974 in response to a report by the President's National Commission on Fire Prevention and Control entitled *America Burning*, which presented a dismal assessment of the Nation's fire problem. The report found that nearly 12,000 lives were lost to fire annually in this country. In addition, fire was found responsible for

more than 300,000 injuries and over \$3 billion of economic losses annually.

Congress reacted to the report by declaring a Federal role for reducing fire losses, and created the United States Fire Administration and the National Fire Academy. The U.S. Fire Administration provides vital assistance to the Nation's fire and emergency services communities which helps them to save lives and property. The Fire Administration is able to perform this service through four primary missions: First, fire service training; second, fire-related data collection and analysis; third, public education and awareness; and fourth, research and technology development.

The National Fire Academy provides management-level training and education to fire and emergency service personnel and fire protection and control activities. The Fire Academy, located in Emmitsburg, Maryland, trains tens of thousands of fire and emergency personnel a year through its on- and off-campus programs.

Annually during budget authorization hearings held by the Committee on Science, witnesses from the volunteer and paid fire services as well as emergency services have testified as to the important and indispensable role the U.S. Fire Administration and the National Fire Academy play in their ability to perform their job.

Senate 1231 establishes funding levels sufficient to preserve all the missions and functions of the Fire Administration and the Academy. Specifically, this bill authorizes just over \$29.6 million for the Fire Administration's fiscal 1998 budget, and just over \$30.5 million for fiscal year 1999. These Senate-approved authorization levels are slightly higher, \$64,000 and \$54,000 respectively, than the previously approved House authorizations.

I believe this 3-percent increase is justified and necessary in order to ensure that the agency can continue its current mission activities, as well as to perform a new and important counterterrorism training function. The Fire Administration's new mission, counterterrorism training for emergency response personnel, arose from the enactment of the Antiterrorism and Effective Death Penalty Act passed last year by Congress and signed by the President.

Counterterrorism training for first responders is an appropriate function of the Fire Administration, as it is frequently local fire and emergency departments who are first on the scene not only to battle fires, but also to react to acts of terrorism, such as the bombings in Oklahoma City and the World Trade Center in New York. In addition, counterterrorism training complements and supplements many of the traditional first responder training programs currently offered through the Academy.

The other sections of S. 1231 include, first, technical changes to fire protection standards; second, a provision requiring that the administrator inform Congress in advance of any effort to privatize or terminate agency activities; third, a requirement that reprogramming notices required by the Committee on Appropriations committees must also be provided to the authorizing committees; and fourth, a sense of Congress resolution emphasizing that planning should begin immediately to assess and correct any computer systems affected by the year 2000 date-related software problem; fifth, a provision allowing the Administrator to donate excess Federal computer equipment to schools; and sixth, a requirement that no later than 180 days after the enactment of this bill, the Fire Administration submit a report to Congress examining the risks faced by firefighters in suppressing tire fires. This report was also added by the Senate, and we agree as to its need.

Mr. Speaker, I applaud the efforts of the U.S. Fire Administration and the National Fire Academy, and I believe this bill is a reflection of strong bipartisan support for these agencies and will enable them to continue their missions and to accomplish their goals.

In closing, I want to thank the gentleman from New Mexico [Mr. SCHIFF], chairman of the subcommittee, and the gentleman from Michigan [Mr. BARCIA], the ranking member of the Subcommittee on Basic Research, for their hard work on this legislation, as well as the full committee's ranking member, the gentleman from California [Mr. BROWN].

Mr. Speaker, I reserve the balance of my time.

Mr. BARCIA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, before I begin my remarks on Senate 1231, I want to say what a pleasure and privilege it has been to work with Chairman SENSENBRENNER and the acting subcommittee chairman, and I want to commend them for, again, their bipartisan effort at producing in the House version of this legislation what is a great step forward in terms of expanding the education for firefighters and first responders of emergency situations so we can best cope not only with those typical disasters that occur around the country, but also the new focus on counterterrorism and associated efforts to control that new threat to the Nation.

Mr. Speaker, I rise in support of S. 1231, which authorizes appropriations for the U.S. Fire Administration. This bill was developed in consultation with the Committee on Science and contains acceptable amendments to House Resolution 1272, the House-passed Fire Administration authorization bill.

The U.S. Fire Administration deserves the support of Congress because

its mission is important to the safety of every American, and because it is an agency widely acknowledged to be doing its job well. It was created, as the distinguished chairman just mentioned, by the Federal Fire Prevention and Control Act of 1974 in response to a growing awareness that the high loss of life and destruction of property due to fire was a national problem that could be ameliorated by focused and coordinated education, training, and research efforts.

During the past 25 years, significant progress has been made through programs of the Fire Administration to increase public awareness of fire safety measures, to improve the effectiveness of fire and emergency services, and to spur the wider use of home fire safety devices.

Much has been accomplished by the Fire Administration, but the record of fire death rates and property loss in the Nation reveals that much remains to be done. I believe this bill will give the Fire Administration the resources needed to allow it to continue to excel.

S. 1231 will not support just another bureaucratic program. The very small expenditure of funds provided by the Fire Administration will be used to improve the skills of firefighters and emergency response personnel, to increase public awareness of fire safety, and to improve the equipment available for suppressing fires and protecting firefighters.

In short, the program, sponsored by the Fire Administration, will increase the level of excellence of a national service that is critical to every one of us. The Fire Administration has long enjoyed the bipartisan support of Congress because of the recognition of its vital mission to increase public safety.

I would like to commend the majority members of the Committee on Science once again for working in a bipartisan way with the minority to develop the House companion bill to S. 1231. Mr. Speaker, I fully support S. 1231, and recommend the measure to the House for its favorable consideration.

Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. LAZIO of New York). The question is on the motion offered by the gentleman from Wisconsin [Mr. SENSENBRENNER] that the House suspend the rules and pass the Senate bill, S. 1231.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

#### STANISLAUS COUNTY, CA, LAND CONVEYANCE

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and

pass the bill (H.R. 112) to provide for the conveyance of certain property from the United States to Stanislaus County, California.

The Clerk read as follows:

H.R. 112

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. CONVEYANCE OF PROPERTY.

As soon as practicable after the date of the enactment of this Act, the Administrator of the National Aeronautics and Space Administration (in this Act referred to as "NASA") shall convey to Stanislaus County, California, all right, title, and interest of the United States in and to the property described in section 2.

#### SEC. 2. PROPERTY DESCRIBED.

The property to be conveyed pursuant to section 1 is—

- (1) the approximately 1528 acres of land in Stanislaus County, California, known as the NASA Ames Research Center, Crows Landing Facility (formerly known as the Naval Auxiliary Landing Field, Crows Landing);
- (2) all improvements on the land described in paragraph (1); and
- (3) any other Federal property that is—
  - (A) under the jurisdiction of NASA;
  - (B) located on the land described in paragraph (1); and
  - (C) designated by NASA to be transferred to Stanislaus County, California.

#### SEC. 3. TERMS.

(a) CONSIDERATION.—The conveyance required by section 1 shall be without consideration other than that required by this section.

(b) ENVIRONMENTAL REMEDIATION.—(1) Notwithstanding any other provision of law, the conveyance required by section 1 shall not relieve any Federal agency of any responsibility under law for any environmental remediation of soil, groundwater, or surface water.

(2) Any remediation of contamination, other than that described in paragraph (1), within or related to structures or fixtures on the property described in section 2 shall be subject to negotiation to the extent permitted by law.

(c) RETAINED RIGHT OF USE.—NASA shall retain the right to use for aviation activities, without consideration and on other terms and conditions mutually acceptable to NASA and Stanislaus County, California, the property described in section 2.

(d) RELINQUISHMENT OF LEGISLATIVE JURISDICTION.—NASA shall relinquish, to the State of California, legislative jurisdiction over the property conveyed pursuant to section 1—

- (1) by filing a notice of relinquishment with the Governor of California, which shall take effect upon acceptance thereof; or
- (2) in any other manner prescribed by the laws of California.

(e) ADDITIONAL TERMS.—The Administrator of NASA may negotiate additional terms to protect the interests of the United States.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin [Mr. SENSENBRENNER] and the gentleman from Alabama [Mr. CRAMER] each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. SENSENBRENNER].

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all

Members may have 5 legislative days within which to revise and extend their remarks on H.R. 112.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the same version of this bill passed this House last year under suspension of the rules. H.R. 112 requires the Administrator of NASA to convey to Stanislaus County, California, the property known as the NASA Ames Research Center, Crows Landing Facility. Under this bill NASA shall retain the right to use this property for aviation activities.

In March of this year, NASA conducted a review of its field activities to identify potential closures which would reduce operational costs. As a result of this effort, NASA decided to cease operations at the NASA Crows Landing Facility in order to lower overhead burdens and eliminate operations costs.

This excess Federal property is ideal for use by Stanislaus County for economic development. It is a win-win arrangement for the Federal Government and the local government of California, and I urge my colleagues to support this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. CRAMER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I also would like to rise in support of H.R. 112. I thank the chairman of the committee for making sure that this important piece of legislation made it to the floor here at the concluding hours.

This is a noncontroversial measure, as the chairman has indicated. It simply allows the Administrator of NASA to transfer this land to the Stanislaus County, California, government there. The land had been previously owned by the Navy and then transferred to NASA. NASA indicates that it has no further use for this particular parcel, except that it would like to reserve the right to use it for aviation purposes. H.R. 112 does allow the NASA Administrator to preserve that right, and as well, to review to see that there are any other interests that would be in the best interests of the government.

So I agree with the chairman, this is a win-win situation for the Federal Government, for the county government there in California, and I urge Members to suspend the rules and pass H.R. 112.

Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin [Mr.

SENSENBRENNER] that the House suspend the rules and pass the bill, H.R. 112.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

□ 2200

#### AUBURN INDIAN RESTORATION AMENDMENT ACT

Mr. DOOLITTLE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1805) to amend the Auburn Indian Restoration Act to establish restrictions related to gaming on and use of land held in trust for the United Auburn Indian Community of the Auburn Rancheria of California, and for other purposes.

The Clerk read as follows:

H.R. 1805

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Auburn Indian Restoration Amendment Act".

#### SEC. 2. RESTRICTIONS ON GAMING.

Section 202 of the Auburn Indian Restoration Act (25 U.S.C. 13001) is amended by adding at the end the following new subsection:

"(g) GAMING.—

"(1) Class II and class III gaming activities shall be lawful only on one parcel of land, which shall be taken into in trust for the Tribe pursuant to section 204(a)(1), but only if—

"(A) prior to the time such parcel is taken into trust, the Tribe and the local government of the political jurisdiction in which the parcel is located have entered into a compact as required by section 204(e);

"(B) the gaming facility and related infrastructure on such parcel of land are located at least 2 miles from any church, school, or residence which was constructed in a residential zone and which existed on the date of the introduction to the House of Representatives of the Auburn Indian Restoration Amendment Act (June 5, 1997);

"(C) such parcel of land is specifically taken into trust for class II and class III gaming activities; and

"(D) such parcel of land is not part of the land identified in section 204(b).

"(2) If the State of California finds that class III gaming activities have been established in violation of the requirements of the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.) on land held in trust for the Tribe, the State may institute an action in a court of competent jurisdiction for injunctive relief to enjoin all class II and class III gaming activities. If a court of competent jurisdiction determines, by a preponderance of the evidence, that Class III gaming activity has been established in violation of the requirements of the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.) on land held in trust for the Tribe, all Class II and Class III gaming activities shall be unlawful on land held in trust for the Tribe and any such activities may be enjoined by such court. The Tribe shall not raise sovereign immunity as a defense to any such action or to the enforcement or execution of a judgment resulting from such action.

"(3) Except as provided herein, nothing in this Act shall negate or diminish in any way the Tribe's obligation to comply with all provisions of the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.)."

#### SEC. 3. RESTRICTIONS ON LAND TO BE HELD IN TRUST.

(a) LANDS TO BE TAKEN INTO TRUST.—Section 204(a) of the Auburn Indian Restoration Act (25 U.S.C. 13001-2) is amended to read as follows:

"(a) LANDS TO BE TAKEN INTO TRUST.—(1) Upon request of the tribe, the Secretary shall accept forthwith for the benefit of the Tribe any real property located in Placer County, California, if—

"(A) the property is conveyed or otherwise transferred to the Secretary;

"(B) at the time of the conveyance or transfer pursuant to subparagraph (A), there are no adverse legal claims on such property, including outstanding liens, mortgages, or taxes owed; and

"(C) prior to the Secretary accepting the property the Tribe was in compliance with section 202(g)(1) and 202(g)(3), and subsections (d) and (e) of this section.

"(2) The Secretary may accept, subject to the provisions of this Act, any additional acreage in the Tribe's service area pursuant to the authority of the Secretary, for non-gaming related activities or nonresidential purposes under the Act of June 18, 1934 (25 U.S.C. 461 et seq.), provided that the primary function of such additional acreage shall not be the furtherance of gaming activities."

(b) USE OF LAND TAKEN INTO TRUST FOR NONGAMING PURPOSES.—Section 204 of the Auburn Indian Restoration Act (25 U.S.C. 13001-2) is amended by adding at the end the following new subsections:

"(d) USE OF LAND TAKEN INTO TRUST FOR NONGAMING PURPOSES.—(1) A parcel of real property taken into trust for the Tribe pursuant to the provisions of section 204(a) (1) or (2), for purposes other than class II or class III gaming activities, may only be used and developed in a manner consistent with and in compliance with all general and community plans and zoning ordinances of the local government of the political jurisdiction in which the land to be taken into trust is located which are in effect at the time that the land is taken into trust, and any other provisions agreed to in the compact required by subsection (e).

"(2)(A) In addition to the former trust lands referred to in subsection (b), the Tribe may acquire one parcel of land for residential purposes pursuant to section 204 (a)(1) and (d)(1).

"(B) Any additional real property taken into trust for the Tribe for residential purposes pursuant to section 204 (a)(2) and (d)(1) shall be contiguous to the initial parcel.

"(C) Except as provided in subsection (b), the Secretary shall not take any real property into trust for residential purposes for individual members of the Tribe.

"(e) COMPACT REQUIRED.—(1) After the date of the enactment of the Auburn Indian Restoration Amendment Act, the Secretary shall not take any land into trust for the Tribe until the Tribe and the local government of the political jurisdiction in which the land to be taken into trust is located have entered into a written compact, which the parties shall negotiate in good faith and in a timely manner, and which shall include provisions relating to—

"(A) location and permissible use of the land to be taken into trust;

"(B) an agreed upon environmental study which provides for the mitigation of any en-

vironmental impacts of the proposed development and uses of the land to be taken into trust, and that any mitigation required shall be similar in scope and content to that which would be required of other non-tribal applicants in the local government of the political jurisdiction;

"(C) law enforcement jurisdiction responsibilities and other public services to be provided on the land, consistent with other Federal laws, including any reasonable compensation to the local government of the political jurisdiction for the services and impacts;

"(D) the impact of the removal of the land from the tax rolls;

"(E) building and design standards for any structures proposed to be built on the land, including provisions that such structures shall be built in accordance with standards similar in scope and content to those required of non-tribal applicants in the local jurisdiction; and

"(F) such additional matters as the parties may agree.

"(2) The local government of the political jurisdiction in which the land to be taken into trust is located shall—

"(A) provide notice of the Tribe's proposal and the terms of the local compact to the public, the State, and the governing bodies of any other local governments in Placer County, California;

"(B) provide the recipients of the notice given under subparagraph (A) with a period of 45 days in which to provide comments; and

"(C) take comments provided under subparagraph (B) into consideration and address them before entering into a local compact.

"(3) The Tribe and the local jurisdiction shall negotiate the compact required by this subsection in good faith.

"(f) BINDING ARBITRATION.—(1) If a dispute arises regarding—

"(A) the non-compliance of the Tribe or the local jurisdiction with subsection (e)(3);

"(B) the terms of a compact negotiated pursuant to subsection (e); or

"(C) the alleged violation of a compact negotiated pursuant to subsection (e), the Tribe or the local government of the political jurisdiction in which the real property relevant to the dispute is located may submit the dispute to binding arbitration under the United States Arbitration Act (9 U.S.C. 1 et seq.). The Tribe shall not raise sovereign immunity as a defense to arbitration or the enforcement of any arbitration award or any judgment based thereon, and all parties expressly agree to comply with such awards and judgments.

"(2) If the Tribe or the local government of the political jurisdiction in which the real property relevant to the dispute is located elects to submit a dispute to arbitration pursuant to paragraph (1), an arbitration board shall be established to conduct the arbitration and shall consist of—

"(A) one independent member selected by the Tribe;

"(B) one independent member selected by the local government of the political jurisdiction in which the land relevant to the dispute is located; and

"(C) one member selected by the members selected pursuant to subparagraphs (A) and (B). If the members selected pursuant to subparagraphs (A) and (B) are unable to agree upon a third member within 20 days after selection of the other members, the presiding judge of the Placer County Superior Court shall select the third member.

"(3) The costs of an arbitration proceeding under this subsection, not including attorneys' fees, shall be awarded to the prevailing

party in the arbitration as determined by the arbitration board.

"(4) The decision of the arbitration board shall be final and implemented subject only to judicial review as provided for in the United States Arbitration Act (9 U.S.C. 1 et seq.).

"(g) TERMS ENFORCEABLE.—The terms of subsections (d) and (e) are specifically enforceable in a court of competent jurisdiction by the Tribe and the local government of the political jurisdiction in which the land relevant to a dispute is located against the other. The Tribe shall not raise its sovereign immunity as a defense to such an action or the enforcement or execution of any judgment resulting from such action."

#### SEC. 4. DEFINITIONS.

Section 208 of the Auburn Indian Restoration Act (25 U.S.C. 13001-6) is amended by adding at the end the following new paragraphs:

"(8) The term 'class II gaming' has the meaning given that term in the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.).

"(9) The term 'class III gaming' has the meaning given that term in the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.)."

The SPEAKER pro tempore (Mr. LAZIO of New York). Pursuant to the rule, the gentleman from California [Mr. DOOLITTLE] will control 20 minutes.

The Chair recognizes the gentleman from California [Mr. DOOLITTLE].

Mr. DOOLITTLE. Mr. Speaker, I yield myself such time as I may consume.

H.R. 1805, the proposed Auburn Indian Restoration Act, would impose various State and local limitations, zoning requirements, and restrictions on gaming activities of the United Auburn Indian Community. It would also impose certain restrictions on lands to be taken into trust for the community for gaming as well as nongaming purposes.

The chairperson of the United Auburn Indian Community, Jessica Tavers, in a letter to me dated September 15, 1997, stated that, "United Auburn Indian Community has thoroughly reviewed H.R. 1805 and wishes to inform the committee that we have no opposition to this bill. Indeed, we believe that the measure sets fair standards and a workable mechanism for the resolution of any differences between the tribe and Placer County, where the tribe resides."

I urge my colleagues, Mr. Speaker, to support this legislation. I move that the bill be passed.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. DOOLITTLE] that the House suspend the rules and pass the bill, H.R. 1805.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

### WATER-RELATED TECHNICAL CORRECTIONS ACT OF 1997

Mr. DOOLITTLE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2402) to make technical and clarifying amendments to improve the management of water-related facilities in the Western United States, as amended.

The Clerk read as follows:

H.R. 2402

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Water-Related Technical Corrections Act of 1997".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Reduction of waiting period for obligation of funds provided under Reclamation Safety of Dams Act of 1978.
- Sec. 3. Albuquerque Metropolitan Area Reclamation and Reuse Project.
- Sec. 4. Phoenix Metropolitan Water Reclamation and Reuse Project.
- Sec. 5. Refund of certain amounts received under Reclamation Reform Act of 1982.
- Sec. 6. Extension of periods for repayments for Nueces River reclamation project and Canadian River reclamation project, Texas.
- Sec. 7. Solano Project Water.
- Sec. 8. Use of distribution system of Canadian River reclamation project, Texas, to transport nonproject water.
- Sec. 9. Olivenhain Water Storage Project loan guarantee.
- Sec. 10. Fish passage and protective facilities, Rogue River Basin, Oregon.

#### SEC. 2. REDUCTION OF WAITING PERIOD FOR OBLIGATION OF FUNDS PROVIDED UNDER RECLAMATION SAFETY OF DAMS ACT OF 1978.

Section 5 of the Reclamation Safety of Dams Act of 1978 (92 Stat. 2471; 43 U.S.C. 509) is amended by striking "sixty days" and all that follows through "day certain" and inserting "30 calendar days".

#### SEC. 3. ALBUQUERQUE METROPOLITAN AREA RECLAMATION AND REUSE PROJECT.

Section 1621 of the Reclamation Projects Authorization and Adjustment Act of 1992, as added by section 2(a)(2) of the Reclamation Recycling and Water Conservation Act of 1996 (110 Stat. 3292; 43 U.S.C. 390h-12g), is amended—

- (1) in the heading by striking "STUDY" and inserting "PROJECT"; and
- (2) in subsection (a)—
  - (A) by inserting "the planning, design, and construction of" after "participate in";
  - (B) by striking "Study" and inserting "Project"; and
  - (C) by inserting "and nonpotable surface water" after "impaired groundwater".

#### SEC. 4. PHOENIX METROPOLITAN WATER RECLAMATION AND REUSE PROJECT.

Section 1608 of the Reclamation Projects Authorization and Adjustment Act of 1992 (106 Stat. 4666; 43 U.S.C. 390h-6) is amended—

- (1) by amending subsection (a) to read as follows:
  - "(a) The Secretary, in cooperation with the city of Phoenix, Arizona, shall partici-

pate in the planning, design, and construction of the Phoenix Metropolitan Water Reclamation and Reuse Project to utilize fully wastewater from the regional wastewater treatment plant for direct municipal, industrial, agricultural, and environmental purposes, groundwater recharge, and indirect potable reuse in the Phoenix metropolitan area."

(2) in subsection (b) by striking the first sentence; and

(3) by striking subsection (c).

#### SEC. 5. REFUND OF CERTAIN AMOUNTS RECEIVED UNDER RECLAMATION REFORM ACT OF 1982.

(a) REFUND REQUIRED.—Subject to subsection (b) and the availability of appropriations, the Secretary of the Interior shall refund fully amounts received by the United States as collections under section 224(i) of the Reclamation Reform Act of 1982 (101 Stat. 1330-268; 43 U.S.C. 390ww(1)) for paid bills (including interest collected) issued by the Secretary of the Interior before January 1, 1994, for full-cost charges that were assessed for failure to file certain certification forms under sections 206 and 224(c) of such Act (96 Stat. 1266, 1272; 43 U.S.C. 390ff, 390ww(c)).

(b) ADMINISTRATIVE FEE.—In the case of a refund of amounts collected in connection with sections 206 and 224(c) of the Reclamation Reform Act of 1982 (96 Stat. 1266, 1272; 43 U.S.C. 390ff, 390ww(c)) with respect to any water year after the 1987 water year, the amount refunded shall be reduced by an administrative fee of \$260 for each occurrence.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$3,000,000.

#### SEC. 6. EXTENSION OF PERIODS FOR REPAYMENTS FOR NUECES RIVER RECLAMATION PROJECT AND CANADIAN RIVER RECLAMATION PROJECT, TEXAS.

Section 2 of the Emergency Drought Relief Act of 1996 (Public Law 104-318; 110 Stat. 3862) is amended by adding at the end the following new subsection:

"(c) EXTENSION OF PERIODS FOR REPAYMENT.—Notwithstanding any provision of the Reclamation Project Act of 1939 (43 U.S.C. 485 et seq.), the Secretary of the Interior—

"(1) shall extend the period for repayment by the City of Corpus Christi, Texas, and the Nueces River Authority under contract No. 6-07-01-X0675, relating to the Nueces River reclamation project, Texas, until—

"(A) August 1, 2029, for repayment pursuant to the municipal and industrial water supply benefits portion of the contract; and

"(B) until August 1, 2044, for repayment pursuant to the fish and wildlife and recreation benefits portion of the contract; and

"(2) shall extend the period for repayment by the Canadian River Municipal Water Authority under contract No. 14-06-500-485, relating to the Canadian River reclamation project, Texas, until October 1, 2021."

#### SEC. 7. SOLANO PROJECT WATER.

(a) AUTHORIZATION.—The Secretary of the Interior is authorized to enter into contracts with the Solano County Water Agency, or any of its member unit contractors for water from the Solano Project, California, pursuant to the Act of February 21, 1911 (43 U.S.C. 523), for—

(1) the impounding, storage, and carriage of nonproject water for domestic, municipal, industrial, and other beneficial purposes, using any facilities associated with the Solano Project, California, and

(2) the exchange of water among Solano Project contractors, for the purposes set

forth in paragraph (1), using facilities associated with the Solano Project, California.

(b) **LIMITATION.**—The authorization under subsection (a) shall be limited to the use of that portion of the Solano Project facilities downstream of Mile 26 of the Putah South Canal (as that canal is depicted on the official maps of the Bureau of Reclamation), which is below the diversion points on the Putah South Canal utilized by the city of Fairfield for delivery of Solano Project water.

**SEC. 8. USE OF DISTRIBUTION SYSTEM OF CANADIAN RIVER RECLAMATION PROJECT, TEXAS, TO TRANSPORT NONPROJECT WATER.**

The Act of December 29, 1950 (chapter 1183; 43 U.S.C. 600b, 600c), authorizing construction, operation, and maintenance of the Canadian River reclamation project, Texas, is amended by adding at the end the following new section:

“**SEC. 4.** (a) The Secretary of the Interior shall allow use of the project distribution system (including all pipelines, aqueducts, pumping plants, and related facilities) for transport of water from the Canadian River Conjunctive Use Groundwater Project to municipalities that are receiving water from the project. Such use shall be subject only to such environmental review as is required under the Memorandum of Understanding, No. 97-AG-60-09340, between the Bureau of Reclamation and the Canadian River Municipal Water Authority, and a review and approval of the engineering design of the interconnection facilities to assure the continued integrity of the project. Such environmental review shall be completed within 90 days after the date of enactment of this section.

“(b) The Canadian River Municipal Water Authority shall bear the responsibility for all costs of construction, operation, and maintenance of the Canadian River Conjunctive Groundwater Project, and for costs incurred by the Secretary in conducting the environmental review of the project. The Secretary shall not assess any additional charges in connection with the Canadian River Conjunctive Use Groundwater Project.”

**SEC. 9. OLIVENHAIN WATER STORAGE PROJECT LOAN GUARANTEE.**

(a) **LOAN GUARANTEE.**—The Secretary of the Interior may guarantee a loan made to either the Olivenhain Municipal Water District (in this section referred to as the “District”) or to a nongovernmental developer selected by the District, for building and financing the Olivenhain Water Storage Project in northern San Diego County, California. The amount of a loan guaranteed under this subsection may not exceed \$70,000,000. Before making any such loan guarantee, the Secretary shall evaluate the design and justification for the proposed project. The Secretary may make such a loan guarantee only after the Secretary determines that the proposed project is economically feasible and the design for the proposed project is technically and environmentally adequate.

(b) **INTEREST RATE.**—Any loan guaranteed under subsection (a) shall bear interest at a rate agreed upon by the borrower and lender.

(c) **OBLIGATION OF UNITED STATES.**—Any loan guarantee under this section shall constitute an obligation, in accordance with the terms and conditions of such guarantee, of the United States Government, and the full faith and credit of the United States is hereby pledged to full performance of the obligation.

(d) **SECURITY.**—

(1) **RESERVE FUND AND COMMITMENT OF DISTRICT REVENUES.**—To ensure the repayment of any loan guaranteed under this section and as a condition of providing the guarantee, the Secretary of the Interior shall require that—

(A) the borrower establish and maintain, with a trustee designated by the Secretary, a reserve fund in the amount of 115 percent of the next year's principal and interest payments on the loan;

(B) the District agree to use its revenues to make all payments required under the terms of the loan prior to any payment by the United States under the guarantee, and to make those payments through the trustee designated under subparagraph (A); and

(C) the trustee designated under subparagraph (A) agree to use all amounts received for repayment of the loan to repay the loan.

(2) **RESERVE FUND REQUIREMENTS.**—The reserve fund under this subsection shall be established under terms that provide that—

(A) all moneys in the reserve fund shall constitute a trust fund for the repayment of the loan guaranteed under subsection (a); and

(B) the reserve fund shall be administered in accordance with and pursuant to provisions agreed upon by the borrower and lender for the loan guaranteed under subsection (a).

(3) **PAYMENT OF LOAN AMOUNTS.**—Proceeds from the loan guaranteed under subsection (a) shall—

(A) be deposited directly with the trustee designated by the Secretary of the Interior under paragraph (1)(A); and

(B) be disbursed by the trustee consistent with the terms of the loan.

(4) **QUALIFICATIONS OF TRUSTEE.**—Any trustee designated by the Secretary of the Interior under paragraph (1) must, at a minimum—

(A) be a trust company or a bank having the powers of a trust company;

(B) have a combined capital and surplus of at least \$100,000,000; and

(C) be otherwise subject to supervision or examination by a Federal agency.

**SEC. 10. FISH PASSAGE AND PROTECTIVE FACILITIES, ROGUE RIVER BASIN, OREGON.**

The Secretary of the Interior is authorized to use otherwise available amounts to provide up to \$2,000,000 in financial assistance to the Medford Irrigation District and the Rogue River Valley Irrigation District for the design and construction of fish passage and protective facilities at North Fork Little Butte Creek Diversion Dam and South Fork Little Butte Creek Diversion Dam in the Rogue River basin, Oregon, if the Secretary determines in writing that these facilities will enhance the fish recovery efforts currently underway at the Rogue River Basin Project, Oregon.

The **SPEAKER** pro tempore. Pursuant to the rule, the gentleman from California [Mr. DOOLITTLE] will control 20 minutes.

The Chair recognizes the gentleman from California [Mr. DOOLITTLE].

Mr. DOOLITTLE. Mr. Speaker, I yield myself such time as I may consume.

I rise in support of this legislation, the Water-Related Technical Corrections Act of 1997, and urge its adoption by the House of Representatives.

H.R. 2402 is a compilation of amendments to the Federal reclamation law designed to clarify authorities to the Bureau of Reclamation or existing pro-

visions of law. This legislation was compiled after canvassing members of the Subcommittee on Water and Power of the Committee on Resources, members of the Western Water Caucus, and the Bureau of Reclamation about any such needed changes.

Let me stress that most of these provisions are being sought to enhance water management capabilities at locations in several different states, such as Oregon, California, Arizona, New Mexico, and Texas.

I urge my colleagues to support this bill and move its adoption.

Mr. SMITH of Oregon. Mr. Speaker, I would like to thank the Chairman of the House Resources Subcommittee on Water and Power, Mr. DOOLITTLE, for his many efforts this year on behalf of Oregon farmers. For the past year, he was worked diligently to help further the cause of common-sense solutions to the complex water conflicts in the West. Today's bill exemplifies his commitment to advancing this cause. H.R. 2402, the Water-Related Technical Corrections Act, contains a provision for Oregon farmers that can only be described as a win-win. It helps farmers in southern Oregon by stabilizing their operations, protects endangered and threatened anadromous fish runs, and provides substantial benefits to the adjacent federal Bureau of Reclamation (the Bureau) project.

The bill will provide financial assistance to the Medford Irrigation District and Rogue River Valley Irrigation District (the Districts), both located in the Rogue River basin in southwest Oregon, for the construction of fish passage and protective facilities. Despite the Bureau's desire to assist in this effort, the Interior Solicitor's Office provided a legal opinion in August stating that the Bureau does not have Congressional authority to provide financial assistance to the Districts. Without the authority granted by H.R. 2402, the Bureau will be able to provide technical assistance for the engineering designs of the improvements, but will not be able to assist with the implementation of the needed facilities. Several weeks ago, I was contacted by the Bureau's Boise field office to assist in granting this authority. With the help of Chairman DOOLITTLE, we are accomplishing this objective today.

The North Fork Little Butte Creek Diversion Dam is located in the North Fork Little Butte Creek about one mile upstream from the confluence with the South Fork and diverts water to the Medford Main Canal. The South Fork Little Butte Creek Diversion Dam is located on the South Fork Little Butte Creek about one mile upstream from the confluence with the North Fork, and diverts water from the South Fork Little Butte Creek to the Medford Main Canal. North and South Fork Little Butte Creeks are notable for runs of summer and winter steelhead, spring chinook salmon, and coho salmon as well as native cutthroat and rainbow trout, and have been identified as critical spawning and rearing areas for coho salmon and steelhead.

Both diversion dams are jointly owned and operated by the Districts. Fish passage and protective facilities associated with both diversions are old, have deteriorated, and do not meet current requirements for fish passage as

established by the National Marine Fisheries Service. Since the Rogue River Basin Project (the Project), a Federal Reclamation project, is appurtenant to those diversion dams, providing this assistance will ensure that improvements already made at the Project will be fully realized.

Once again, I would like to thank Chairman DOOLITTLE for working to include this minor provision in H.R. 2402. It represents the type of assistance that the federal government ought to be providing to irrigation districts struggling to comply with new regulations that have been imposed upon them, and ensures that the public interest in protecting fish runs is fulfilled.

I urge my colleagues to support this common-sense legislation.

Mr. DOOLITTLE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. DOOLITTLE] that the House suspend the rules and pass the bill, H.R. 2402, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

#### GENERAL LEAVE

Mr. DOOLITTLE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the last two bills just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

#### JIMMY CARTER NATIONAL HISTORIC SITE ACQUISITION

Mr. HANSEN. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 669) to provide for the acquisition of the Plains Railroad Depot at the Jimmy Carter National Historic Site.

The Clerk read as follows:

S. 669

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. ACQUISITION OF PLAINS RAILROAD DEPOT.

Section 1(c)(2) of the Act entitled "An Act to establish the Jimmy Carter National Historic Site and Preservation District in the State of Georgia, and for other purposes", approved December 23, 1987 (16 U.S.C. 161 note; 101 Stat. 1435), is amended by striking "the Plains Railroad Depot (described in subsection (b)(2)(B))."

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Utah [Mr. HANSEN] and the gentleman from Georgia [Mr. BISHOP] each will control 20 minutes.

The Chair recognizes the gentleman from Utah [Mr. HANSEN].

Mr. HANSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 669, which provides for the acquisition of land under the Plains Railroad Depot at the Jimmy Carter National Historic Site in Georgia.

I commend my colleague, the gentleman from Georgia [Mr. BISHOP], for his introduction of H.R. 714, the companion bill of 669, in the House of Representatives.

S. 669 amends Section 1(c)(2), Public Law 100-206, the establishment act for the Jimmy Carter National Historic Site, to remove the restrictions that the Plains Railroad Depot be acquired only by donation for inclusion in the national historic site.

The bill is necessary to clear the title of the railroad right-of-way due to restrictions contained in the 1888 deed from Mr. M.L. Hudson, stipulating that if the railroad ceased operation of the rail line, the land would revert to his heirs. Since the establishment of the historic site in 1987, the National Park Service has spent over 10 years attempting to locate all of the heirs, without success.

This bill allows a friendly condemnation to clear title to the land. Once this action is finalized, the National Park Service will complete the development of this historic depot, which was the headquarters for former President Carter's 1976 Presidential campaign.

The Subcommittee on National Parks and Public Lands held hearings on this legislation, and there was unanimous support. Mr. Speaker, I urge support and passage of this legislation and urge my colleagues to pass S. 669.

Mr. Speaker, I reserve the balance of my time.

Mr. BISHOP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today to ask that my colleagues support S. 669, which would provide a legal fix needed by the Jimmy Carter National Historic Site in Plains, Georgia.

This Presidential site is located within my congressional district and enjoys bipartisan support. The bill is identical to H.R. 1714, a bill I introduced in the House. I would like to thank the Speaker, the majority leader, minority leader, Committee on Resources, and all of those responsible for helping to bring this bill to the floor today.

Public Law 100-206, which created the site at the old Plains Depot, requires that the Seaboard Railroad donated land under it. However, since Congress passed that law, it has been discovered that the CSX Railroad, which is the successor to the old Seaboard Railroad, does not have the legal capacity to donate the land under the depot, nor are there remaining heirs of the original land owners available to make the do-

nation. With that being the case, the plan to work on the site cannot proceed.

Because of the confusion over identification of the heirs, the depot has not been developed to its full potential as an element of the historic site. For example, the small parking lot is muddy during the wet weather and dusty during the dry weather. The depot is currently served by a substandard septic tank because hookup with the town sewer system has not been possible without a clear title. As a result, the depot has been boarded up and unavailable for visitation despite the fact that, in 1990, close to 40,000 schoolchildren from across the country visited the depot.

This measure would amend the law to provide that the land under the depot can be acquired by purchase. This would be effected by the Park Service depositing the appraised value into a court escrow account so that if any heirs ever surfaced, they would receive just compensation.

The National Park Service, in its testimony to both the House and Senate Committees on Resources, testified that it supports this change, and the Congressional Budget Office reports that the budgetary impact of this legal fix is negligible. The Senate has acted favorably on this bill by unanimous consent. So I feel confident that swift action by the full House can help this change become law this year.

I would like to urge my colleagues to support this important bill, because this particular piece of property is a very, very important ingredient to the full development of the Carter Presidential site in Plains, Georgia.

Mr. HANSEN. Mr. Speaker, I reserve the balance of my time.

Mr. BISHOP. Mr. Speaker, I yield 2 minutes to the gentleman from Oregon [Mr. DEFAZIO].

Mr. DEFAZIO. Mr. Speaker, I think the gentleman from Utah [Mr. HANSEN] has meritorious suggestions before the House, and I would urge Members to support it.

But beyond that, at the moment, I would like to go to another issue which I will not be allowed to raise because of restricted rules of the House, and I would have raised it as a point of privilege to the honor and integrity of the House.

It came to my attention and the attention of a number of other Members that directly below this chamber, in H-137, for a number of days that private-interest lobbyists, paid registered lobbyists, have been conducting what is called the war room right here on Capitol grounds using taxpayer-funded phones, lights, facilities, a beautiful room, something not made available to people who are opposing fast track, but only to a group of industries who are supporting the fast track legislation. I believe that this demeans the integrity of the House.

A number of my colleagues intend to put this question to the Speaker. My understanding is that, because of restricted rules of the House, at the moment we cannot raise it as a privilege on the floor. But this is certainly something that the public and other Members should be aware of.

We do not normally make facilities available to private outside interests and or the National Association of Manufacturers, Boeing Company, and other large corporations, at taxpayer expense, to lobby on behalf of legislation right here in the Capitol right beneath us, absolutely prime real estate. I think it is outrageous. And I think that Members should raise this question with the Speaker privately if we are not allowed to do it publicly.

I thank the gentleman from Georgia [Mr. BISHOP] for yielding me the time, and I wish him luck with the bill.

Mr. HANSEN. Mr. Speaker, I yield back the balance of my time.

Mr. BISHOP. Mr. Speaker, I too yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Utah [Mr. HANSEN] that the House suspend the rules and pass the Senate bill, S. 669.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

#### ARCHES NATIONAL PARK EXPANSION ACT OF 1997

Mr. HANSEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2283) to expand the boundaries of Arches National Park in the State of Utah to include portions of the following drainages, Salt Wash, Lost Spring Canyon, Fish Sheep Draw, Clover Canyon, Cordova Canyon, Mine Draw, and Cottonwood Wash, which are currently under the jurisdiction of the Bureau of Land Management, and to include a portion of Fish Sheep Draw, which is currently owned by the State of Utah, as amended.

The Clerk read as follows:

H.R. 2283

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Arches National Park Expansion Act of 1997".

#### SEC. 2. EXPANSION OF ARCHES NATIONAL PARK, UTAH.

(a) BOUNDARY EXPANSION.—Subsection (a) of the first section of Public Law 92-155 (16 U.S.C. 272; 85 Stat. 422) is amended as follows:

(1) By inserting after the first sentence the following new sentence: "Effective on the date of the enactment of the Arches National Park Expansion Act of 1997, the boundary of the park shall also include the area consisting of approximately 3,140 acres and

known as the 'Lost Spring Canyon Addition', as depicted on the map entitled 'Boundary Map, Arches National Park, Lost Spring Canyon Addition', numbered 138/60,000-B, and dated April 1997."

(2) In the last sentence, by striking "Such map" and inserting "Such maps".

(b) INCLUSION OF LAND IN PARK.—Section 2 of Public Law 92-155 (16 U.S.C. 272a) is amended by adding at the end the following new sentences: "As soon as possible after the date of the enactment of the Arches National Park Expansion Act of 1997, the Secretary of the Interior shall transfer jurisdiction over the Federal lands contained in the Lost Spring Canyon Addition from the Bureau of Land Management to the National Park Service. The lands included in the park pursuant to the Arches National Park Expansion Act of 1997 shall be administered in accordance with the laws and regulations applicable to the park."

(c) PROTECTION OF EXISTING GRAZING PERMIT.—Section 3 of Public Law 92-155 (16 U.S.C. 272b) is amended as follows:

(1) By inserting "(a)" before "Where".

(2) By adding at the end the following new subsection:

"(b)(1) In the case of any grazing lease, permit, or license with respect to lands within the Lost Spring Canyon Addition that was issued before the date of the enactment of the Arches National Park Expansion Act of 1997, the Secretary of the Interior shall, subject to periodic renewal, continue such lease, permit, or license for a period of time equal to the lifetime of the permittee as of that date and any direct descendants of the permittee born before that date. Any such grazing lease, permit, or license shall be permanently retired at the end of such period. Pending the expiration of such period, the permittee (or a descendant of the permittee who holds the lease, permit, or license) shall be entitled to periodically renew the lease, permit, or license, subject to such limitations, conditions, or regulations as the Secretary may prescribe.

"(2) Any such grazing lease, permit, or license may be sold during the period specified in paragraph (1) only on the condition that the purchaser shall, immediately upon such acquisition, permanently retire such lease, permit, or license. Nothing in this subsection shall affect other provisions concerning leases, permits, or licenses under the Taylor Grazing Act.

"(3) Any portion of any grazing lease, permit, or license with respect to lands within the Lost Spring Canyon Addition shall be administered by the National Park Service."

(d) WITHDRAWAL FROM MINERAL ENTRY AND LEASING; PIPELINE MANAGEMENT.—Section 5 of Public Law 92-155 (16 U.S.C. 272d) is amended by adding at the end the following new subsection:

"(c)(1) Subject to valid existing rights, Federal lands within the Lost Spring Canyon Addition are hereby appropriated and withdrawn from entry, location, selection, leasing, or other disposition under the public land laws, including the mineral leasing laws.

"(2) The inclusion of the Lost Spring Canyon Addition in the park shall not affect the operation or maintenance by the Northwest Pipeline Corporation (or its successors or assigns) of the natural gas pipeline and related facilities located in the Lost Spring Canyon Addition on the date of the enactment of the Arches National Park Expansion Act of 1997."

(e) EFFECT ON SCHOOL TRUST LANDS.—

(1) FINDINGS.—The Congress finds the following:

(A) A parcel of State school trust lands, more specifically described as section 16, township 23 south, range 22 east, of the Salt Lake base and meridian, is partially contained within the Lost Spring Canyon Addition included within the boundaries of Arches National Park by the amendment by subsection (a).

(B) The parcel was originally granted to the State of Utah for the purpose of generating revenue for the public schools through the development of natural and other resources located on the parcel.

(C) It is in the interest of the State of Utah and the United States for the parcel to be exchanged for Federal lands of equivalent value outside the Lost Spring Canyon Addition, in order to permit Federal management of all lands within the Lost Spring Canyon Addition.

(2) LAND EXCHANGE.—Public Law 92-155 is amended by adding at the end the following new section:

#### "SEC. 8. LAND EXCHANGE INVOLVING SCHOOL TRUST LANDS.

"(a) EXCHANGE REQUIREMENTS.—If, not later than one year after the date of the enactment of the Arches National Park Expansion Act of 1997, and in accordance with this section, the State of Utah offers to transfer all right, title and interest of the State in and to the parcel of school trust lands described in subsection (b)(1) to the United States, the Secretary of the Interior shall accept the offer on behalf of the United States and, within 180 days after the date of such acceptance, transfer to the State of Utah all right, title and interest of the United States in and to the parcel of land described in subsection (b)(2). Title to the State lands shall be transferred at the same time as conveyance of title to the Federal lands by the Secretary of the Interior. The exchange of lands under this section shall be subject to valid existing rights, and each party shall succeed to the rights and obligations of the other party with respect to any lease, right-of-way, or permit encumbering the exchanged lands.

"(b) DESCRIPTION OF PARCELS.—

"(1) STATE CONVEYANCE.—The parcel of school trust lands to be conveyed by the State of Utah under subsection (a) is section 16, township 23 south, range 22 east of the Salt Lake base and meridian.

"(2) FEDERAL CONVEYANCE.—The parcel of Federal lands to be conveyed by the Secretary of the Interior consists of approximately 639 acres and is identified as lots 1 through 12 located in the S $\frac{1}{2}$ N $\frac{1}{2}$  and the N $\frac{1}{2}$ N $\frac{1}{2}$ W $\frac{1}{2}$ S $\frac{1}{2}$  of section 1, township 25 south, range 18 east, Salt Lake base and meridian.

"(3) EQUIVALENT VALUE.—The Federal lands described in paragraph (2) are of equivalent value to the State school trust lands described in paragraph (1).

"(c) MANAGEMENT BY STATE.—At least 60 days before undertaking or permitting any surface disturbing activities to occur on the lands acquired by the State under this section, the State shall consult with the Utah State Office of the Bureau of Land Management concerning the extent and impact of such activities on Federal lands and resources and conduct, in a manner consistent with Federal laws, inventory, mitigation, and management activities in connection with any archaeological, paleontological, and cultural resources located on the acquired lands. To the extent consistent with applicable law governing the use and disposition of State school trust lands, the State shall preserve existing grazing recreational, and wildlife uses of the acquired lands. Nothing in this subsection shall be construed to

preclude the State from authorizing or undertaking surface or mineral activities authorized by existing or future land management plans for the acquired lands.

“(d) IMPLEMENTATION.—Administrative actions necessary to implement the land exchange described in this section shall be completed within 180 days after the date of the enactment of the Arches National Park Expansion Act of 1997.”

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Utah [Mr. HANSEN] will control 20 minutes.

The Chair recognizes the gentleman from Utah [Mr. HANSEN].

Mr. HANSEN. Mr. Speaker, I yield myself such time as I may consume.

I rise in support of H.R. 2283, the Arches National Park Expansion Act of 1997, which was introduced by my colleague, the gentleman from Utah [Mr. CANNON].

This worthwhile legislation would expand the boundaries of the park by approximately 3,140 acres, consisting primarily of public lands currently managed by the Bureau of Land Management. The expansion, known as the Lost Spring Canyon Addition, would follow canyons and rims and natural forms instead of section lines and other manmade features. This addition to the 73,400-acre Arches National Park adds additional concentrations of stone arches and numerous geologic features such as spires, pinnacles, pedestals, and balanced rocks.

Mr. Speaker, I commend my colleague, the gentleman from Utah [Mr. CANNON], for his work in developing a consensus on H.R. 2283 within the State of Utah, conservation organizations, the Congress, and the administration. I urge my colleagues to support this important legislation.

Mr. Speaker, I yield 5 minutes to the gentleman from Utah [Mr. CANNON], the sponsor of the bill.

Mr. CANNON. Mr. Speaker, I am pleased today to rise as the sponsor of the Arches National Park Expansion Act of 1997. I represent Utah's Third Congressional District, a huge and incredibly scenic district that is nearly the size of Ohio.

One of the true gems of my district is the Arches National Park. Arches is world-renowned as the home of hundreds of spectacular stone arches created by wind and water erosion. This poster depicts one of those arches, Delicate Arch.

When Arches National Park was created, the park boundaries were drawn here in Washington using straight lines. But Mother Nature's creations are not linear. In the northeast corner of the park, the boundary was drawn through the middle of the arch through Lost Springs Canyon, leaving it half in the park and half outside. Currently, the Bureau of Land Management manages the upper half of this canyon, while the National Park Service manages the lower portion.

□ 2215

This bill will simply move the park boundary to the far edge of the canyon to include all of Lost Spring Canyon. By doing so, the park boundary will be redrawn where it should have been originally. In doing so, this bill adds approximately 3,140 acres to one of our most spectacular national parks. This is an area of hundred-foot canyon walls, gentle grass valleys and delicate sandstone arches. This common-sense boundary adjustment will bring at least 10 new arches under park protection. It will also have the side benefit of allowing the park to offer a back-country experience, an aspect that is currently missing.

But this addition does not just make sense aesthetically. It also makes sense from a management standpoint. The proposed new boundary will put the National Park Service in charge of an area with clear geographic division, specifically the rim of a canyon. Visitors, park, and BLM employees will know where the park ends and BLM land begins.

Part of the proposed addition also includes a section of school trust land owned by Utah's school children. That section really should be part of Arches. My staff sat down with the Utah School Trust and the Bureau of Land Management to find a section of Federal land that could be traded for the school trust section. A section was identified, and a trade for that section is in the bill. I believe this is one of the key provisions of the measure. In Utah we have had a long history of our school children being forced to bear the burden of Federal land management decisions. In contrast, this bill protects both the land and Utah's school children.

We worked long to ensure that this bill had the input of all the different parties concerned with the park expansion. Comments were taken from elected officials, local citizens, interest groups, Government agencies, and a wide variety of groups who cherish this land. Their opinions were considered carefully during the drafting and redrafting of this bill. I feel strongly that this bill is a good balance of the competing interests.

I believe that is why 49 of my colleagues, Republicans and Democrats, have joined me on this measure. That is why the Utah School Trust, local officials and I believe a majority of the residents of Grand County favor this proposal. That is why both the Grand Canyon Trust and the National Parks and Conservation Association are on board, and that is why the National Park Service and the administration have indicated support. This is a pro-environment, pro-open process, pro-park vote and, most importantly, it is the right thing to do.

Mr. Speaker, I ask for an affirmative vote.

Mr. HANSEN. Mr. Speaker, I submit for the CONGRESSIONAL RECORD the attached language that clarifies the operation and maintenance of the existing natural gas pipeline in Arches National Park and the proposed Lost Spring Canyon addition to the park.

This language has been agreed to by the majority and minority staffs of the National Parks and Public Lands Subcommittee, the sponsor of the bill, Mr. CANNON, the National Park Service, and the operator of the pipeline.

Section 2(d)(2) provides that the natural gas pipeline currently located within the boundary of Arches National Park, and that is located in the Lost Spring Canyon addition to the park, can continue to be operated and maintained in a manner necessary to achieve compliance with Federal pipeline safety regulations.

This language does not give the operator of the pipeline authority to expand the pipeline's current capacity, replace the pipeline, or construct new facilities. Section 2(d)(2) simply recognizes that the operator is bound by the Federal pipeline safety law and implementing regulations to maintain certain safety standards. The committee believes the operator should not be forced into a position where the operator is in violation of those requirements and where the safe operation of the pipeline is jeopardized.

For example, safety regulations require that pipeline operators maintain certain levels of cathodic protection along pipelines to protect against corrosion. Cathodic protection involves the creation of a small electrical current along the pipe to counter the current that naturally occurs between the pipe and the soil. By neutralizing this natural current, corrosion of the pipe is avoided. The committee understands that the pipeline operator now maintains a cathodic protection facility in the Lost Spring Canyon addition to the park. This language insures that such facility could continue to operate if retaining a facility in this area is necessary to achieve the levels of cathodic protection required by Federal regulation.

The committee understands that the National Park Service periodically renews the permit governing the operation of the pipeline located within the park. This language in no way is intended to interfere with the National Park Service's ability to require operation of the pipeline in a manner that minimizes its impact on the park. Again, the language is intended to ensure that the pipeline operator is not forced to operate the pipeline in a manner that is unsafe and inconsistent with Federal law and regulations governing safety.

Mr. COOK. Mr. Speaker, I rise in support of H.R. 2283, the Arches National Park Expansion Act. This bill simply expands the existing national park by 3,140 acres to include scenic wonders that were left out when the park boundaries were drawn 25 years ago. These sites belong in the park and should have been included the first time around. Let me give you an example: Lost Spring Canyon is a spectacular canyon. Nature has carved at least 10 arches in the walls of this dramatic canyon. Yet, only a small portion of the canyon is part of the Arches National Park. The rest was cut out because park boundaries were drawn along sectional lines. This bill now brings the entire canyon into the park.

This is an inexpensive, practical move that has the broad support of the people in my district and my State. I urge the passage of H.R. 2283. Thank you. I yield back the balance of my time.

Mr. HANSEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CALAHAN). The question is on the motion offered by the gentleman from Utah [Mr. HANSEN] that the House suspend the rules and pass the bill, H.R. 2283, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to expand the boundaries of Arches National Park in the State of Utah to include portions of the following drainages: Salt Wash, Lost Spring Canyon, Fish Seep Draw, Clover Canyon, Cordova Canyon, Mine Draw, and Cottonwood Wash, which are currently under the jurisdiction of the Bureau of Land Management, and to include a portion of Fish Seep Draw, which is currently owned by the State of Utah."

A motion to reconsider was laid on the table.

#### GENERAL LEAVE

Mr. HANSEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the two bills just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

#### TRIBUTE TO HONORABLE THOMAS M. FOGLETTA

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute.)

Mr. TRAFICANT. Mr. Speaker, there will be some debate on the floor about the gentleman from Pennsylvania [Mr. FOGLETTA] who has been named ambassador to Italy. I just wanted to take this time this evening in the event that I am not here on the floor when that tribute is made that I want to really salute our colleague for that tremendous achievement. He started out in Philadelphia as the youngest city councilman ever elected. He worked tirelessly for his constituents. I know that the gentleman in the chair has served with him for years in the Committee on Appropriations. He was always fair. While we wait here for the next legislation, I think it is absolutely proper and fitting to pay tribute. I just wanted to put my little two cents in and thank the gentleman from Pennsylvania for the great job he has done for the country, for his constitu-

ents and all the help he has given me and my constituents.

#### JAMES L. FOREMAN U.S. COURTHOUSE

Mr. DUNCAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1502) to designate the U.S. Courthouse located at 301 West Main Street in Benton, IL, as the "James L. Foreman United States Courthouse".

The Clerk read as follows:

H.R. 1502

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. DESIGNATION.

The United States Courthouse located at 301 West Main Street in Benton, Illinois, shall be known and designated as the "James L. Foreman United States Courthouse".

#### SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the building referred to in section 1 shall be deemed to be a reference to the "James L. Foreman United States Courthouse".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Tennessee [Mr. DUNCAN] and the gentleman from Ohio [Mr. TRAFICANT] each will control 20 minutes.

The Chair recognizes the gentleman from Tennessee [Mr. DUNCAN].

Mr. DUNCAN. Mr. Speaker, I yield myself such time as I may consume. H.R. 1502 designates the United States courthouse located in Benton, Illinois as the James L. Foreman United States Courthouse.

Judge Foreman was appointed to the Federal bench in 1972 and became Chief Judge in 1978, continuing in this position until 1992, when he assumed senior status. As Chief Judge, Judge Foreman initiated the efforts to redesignate the judicial districts for the State of Illinois. Judge Foreman also was instrumental in instituting a formal case management system for the Federal courts and establishing court facilities at the United States Penitentiary in Marion, Illinois.

Additionally, Judge Foreman served on the Judicial Resource Committee of the Judicial Conference of the United States. On several occasions he has been appointed to sit by designation in cases before the United States Court of Appeals for the Seventh Circuit and in the United States District Court for the Western District of Kentucky.

Judge Foreman has served with honor and distinction during his tenure on the Federal bench, and this is a fitting tribute for his service. I support the bill and urge my colleagues to support the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. TRAFICANT. Mr. Speaker, I yield such time as he may consume to the hardworking gentleman from Illinois [Mr. POSHARD], the sponsor of this bill.

Mr. POSHARD. Mr. Speaker, I thank the gentleman for yielding me this time. As the sponsor of H.R. 1502, I appreciate the opportunity to pass this legislation today before the end of the session. This bill will designate the United States courthouse located in Benton, Illinois as the James L. Foreman United States Courthouse.

I introduced identical legislation in both the 103rd and 104th Congresses and am pleased to note that they easily passed the House both times. Unfortunately, in both cases the Senate adjourned before the bills were brought before the Senate for consideration.

Benton, a southern Illinois town in Franklin County, was once a member of the Eastern Judicial District of Illinois. This district covered a large area ranging from the outskirts of Chicago south to Champagne-Urbana and covered the entire southern section of the State.

Today Franklin County is one of 38 southern Illinois counties located in the renamed Southern District. The boundaries of this district were reviewed and adjusted at Judge Foreman's suggestion. Judge Foreman has had an outstanding career of service on the Federal bench. Appointed in 1972 after serving as an assistant attorney general for Illinois and Massac County state's attorney during the early 1960s, his hard work and dedication did not go unnoticed. He was appointed Chief Judge in 1978 and continued in this position until 1992, when he was promoted to a senior district judge position.

Long before formal case management systems were mandated for Federal courts, Judge Foreman instituted such a system in the Southern Illinois District. Judge Foreman was also instrumental in establishing court facilities at the maximum security United States Penitentiary in Marion, Illinois to accommodate the community's special security concerns with the prisoners there.

Judge Foreman's honored and distinctive term of service on the Federal bench accompanies his work with the Judicial Resource Committee of the Judicial Conference of the United States, the United States Court of Appeals for the Seventh District Circuit, and the U.S. District Court for the Western District of Kentucky, as proof of his outstanding character and dedication to this great Nation. I believe it would be most appropriate to recognize Judge Foreman's many contributions by naming the courthouse in Benton, Illinois after him.

Mr. Speaker, I am proud to represent Judge Foreman and the citizens of his judicial district. I urge all the Members of the 105th Congress to join me in commending his outstanding record of service to our country and to pass this bill.

Mr. TRAFICANT. Mr. Speaker, I yield myself such time as I may consume. I want to join with the gentleman from Illinois [Mr. POSHARD], the gentleman from Tennessee [Mr. DUNCAN], and the gentleman from California [Mr. KIM] in supporting this bill to designate the courthouse in Benton, Illinois as the James L. Foreman United States Courthouse. In addition to all that has been said, Judge Foreman is best known perhaps for his diligence in instituting a formal case management system long before that concept was ever mandated for all of our Federal courts. He will be remembered for that innovative and decisive action. It is absolutely fitting and proper that we honor Judge Foreman with this designation. I again want to thank the gentleman from Illinois [Mr. POSHARD], who has worked hard to salute the fine judge that we honor here this evening.

Mr. OBERSTAR. Mr. Speaker, I join with Mr. POSHARD, sponsor of H.R. 1502, in honoring Judge James L. Foreman. H.R. 1502 would designate the United States Courthouse located at 301 West Main St., Benton, Illinois as the James L. Foreman United States Courthouse.

Judge Foreman has enjoyed an outstanding career on the Federal bench. During the early years of his career he served as the Massac County State's attorney from 1960 to 1964. In 1972, he was appointed to the Federal bench after serving as the assistant attorney general for the State of Illinois. From 1978 to 1992 he served as the chief judge and in 1992 he took senior status.

Judge Foreman was instrumental in instituting formal case management long before it became mandatory in the Federal system. His service to the legal community is marked with diligence, honor and distinction.

It is fitting and proper to honor Judge Foreman with this designation.

Mr. TRAFICANT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DUNCAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Tennessee [Mr. DUNCAN] that the House suspend the rules and pass the bill, H.R. 1502.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

#### GENERAL LEAVE

Mr. KIM. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 1502.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

#### UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970 AMENDMENT

Mr. KIM. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1258) to amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 to prohibit an alien who is not lawfully present in the United States from receiving assistance under that Act.

The Clerk read as follows:

S. 1258

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. DISPLACED PERSONS NOT ELIGIBLE FOR ASSISTANCE.

Title I of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.) is amended by adding at the end the following:

#### "SEC. 104. DISPLACED PERSONS NOT ELIGIBLE FOR ASSISTANCE.

"(a) IN GENERAL.—Except as provided in subsection (c), a displaced person shall not be eligible to receive relocation payments or may other assistance under this Act if the displaced person is an alien not lawfully present in the United States.

"(b) DETERMINATIONS OF ELIGIBILITY.—

"(1) PROMULGATION OF REGULATIONS.—Not later than 1 year after the date of enactment of this section, after providing notice and an opportunity for public comment, the head of the lead agency shall promulgate regulations to carry out subsection (a).

"(2) CONTENTS OF REGULATIONS.—Regulations promulgated under paragraph (1) shall—

"(A) prescribe the process, procedures, and information that a displacing agency must use in determining whether a displaced person is an alien not lawfully present in the United States;

"(B) prohibit a displacing agency from discriminating, against any displaced person;

"(C) ensure that each eligibility determination is fair and based on reliable information; and

"(D) prescribe standards for a displacing agency to apply in making determinations relating to exceptional and extremely unusual hardship under subsection (c).

"(c) EXCEPTIONAL AND EXTREMELY UNUSUAL HARDSHIP.—If a displacing agency determines by clear and convincing evidence that a determination of the ineligibility of a displaced person under subsection (a) would result in exceptional and extremely unusual hardship to an individual who is the displaced person's spouse, parent, or child and who is a citizen of the United States or an alien lawfully admitted for permanent residence in the United States, the displacing agency shall provide relocation payments and other assistance to the displaced person under this Act if the displaced person would be eligible for the assistance but for subsection (a).

"(d) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section affects any right available to a displaced person under any other provision of Federal or State law."

#### SEC. 2. DUTIES OF LEAD AGENCY.

Section 213(a) of the Uniform Relocation Assistance and Real Property Acquisition

Policies Act of 1970 (42 U.S.C. 4633(a)) is amended—

(1) by redesignating paragraphs (2), (3), and (4) as paragraphs (4), (5), and (6), respectively; and (2) by inserting after paragraph (1) the following:

"(2) provide, in consultation with the Attorney General (acting through the Commissioner of the Immigration and Naturalization Service), through training and technical assistance activities for displacing agencies, information developed with the Attorney General (acting through the Commissioner on proper implementation of section 104;

"(3) ensure that displacing agencies implement section 104 fairly and without discrimination in accordance with section 104(b)(2)(B);"

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. KIM] and the gentleman from Ohio [Mr. TRAFICANT] each will control 20 minutes.

The Chair recognizes the gentleman from California [Mr. KIM].

Mr. KIM. Mr. Speaker, I yield myself such time as I may consume.

□ 2230

Mr. Speaker, today we bring to the floor S. 1258, a bill to amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act to prohibit an illegal alien unlawfully present in the United States from receiving assistance under the act.

Earlier this year the House passed a virtually identical bill, H.R. 849, originally introduced by the gentleman from California [Mr. PACKARD].

When House Resolution 849 was last before this body, on the corrections calendar it passed by a vote 399 to 0, an overwhelming indication of House Resolution 849's bipartisan appeal.

S. 1258 and H.R. 849 plugs a loophole left open in last year's immigration reform bill by amending the Uniform Relocation Assistance Act to prohibit illegal aliens from receiving relocation assistance. Acting at the request of the administration, the Senate bill extends the time which the Department of Transportation will have to write the implementing regulation from 6 months to 1 year. I recommend to my colleagues we accommodate the administration on this issue.

I want to once again thank the gentleman from Minnesota [Mr. OBERSTAR] and their staff for the cooperative way in which they have worked with us to prepare this bill for final consideration today. I want to also thank the gentleman from California [Mr. PACKARD] for sponsoring his legislation and bringing this important issue to the House's attention today. This is a good simple bipartisan bill that plugs a loophole in immigration law. I urge my colleagues to support the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. TRAFICANT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the only substantive difference between the Senate bill and

H.R. 849 is the time period the Department of Transportation will have to develop the regulations that prescribe the processes, the procedures and the information a displacing agency must use to determine whether a displaced person is ineligible for assistance because of immigration status. The House bill provided 6 months; the Senate bill provides 1 year. These regulations will, in large part, determine whether this policy change is implemented fairly, that is all displaced persons must demonstrate the immigration status, or whether we are creating a new tool to, in fact, discriminate.

The administration believes it needs a full year, the Senate responded to those concerns, and I am satisfied with changing the time period for the rule-making involved and also the fact I want to thank the gentleman from California [Mr. KIM], the gentleman from Pennsylvania [Mr. SHUSTER] and the gentleman from California [Mr. PACKARD] for agreeing for key safeguards the Democrats insisted must accompany the policy that illegal immigrants will not be eligible for assistance under this act.

So with that again I thank the gentleman from California [Mr. PACKARD] for his timely work on this issue. Having no other requests for time, I urge an aye vote.

Mr. Speaker, I yield back the balance of my time.

Mr. KIM. Mr. Speaker, I, too, yield back the balance of my time.

The SPEAKER pro tempore (Mr. CALLAHAN). All time has expired.

The question is on the motion offered by the gentleman from California [Mr. KIM] that the House suspend the rules and pass the Senate bill, S. 1258.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

#### GENERAL LEAVE

Mr. KIM. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on S. 1258.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

#### CITY OF CLEVELAND, OHIO, LAND TRANSFER

Mr. DUNCAN. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1347) to permit the city of Cleveland, Ohio, to convey certain lands that the United States conveyed to the city.

The Clerk read as follows:

S. 1347

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. DEFINITIONS.

For purposes of this section, the term "fair market value" shall have the meaning provided that term by the Secretary of Transportation, by regulation.

#### SEC. 2. AUTHORITY TO GRANT WAIVERS.

(a) IN GENERAL.—Notwithstanding any other provision of law and subject to section 47153 of title 49, United States Code, and section 3, the Secretary of Transportation may waive any of the terms contained in the deed of conveyance described in subsection (b).

(b) DEED OF CONVEYANCE.—The deed of conveyance described in this subsection is the deed of conveyance issued by the United States and dated January 10, 1967, for the conveyance of lands to the city of Cleveland, Ohio, for use by the city for airport purposes.

#### SEC. 3. CONDITIONS.

(a) FAIR MARKET VALUE OR EQUIVALENT BENEFIT.—As a condition to receiving a waiver under this section, the city of Cleveland, Ohio, may convey an interest in the lands described in section 2(b) only if the city receives, in exchange for the interest—

(1) an amount equal to the fair market value of the interest; or

(2) an equivalent benefit.

(b) Use of Amounts or Equivalent Benefits.—Any amount or equivalent benefit that is received by the city of Cleveland shall be used by the city for—

(1) the development, improvement, operation or maintenance of a public airport; or

(2) lands (including any improvements to those lands) that produce revenues that are used for airport development purposes.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Tennessee [Mr. DUNCAN] and the gentleman from Illinois [Mr. LIPINSKI] each will control 20 minutes.

The Chair recognizes the gentleman from Tennessee [Mr. DUNCAN].

Mr. DUNCAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of this legislation. S. 1347 simply expedites the conveyance of land from Cleveland Hopkins International Airport to the city of Brook Park, OH. The Cleveland Airport has a major capacity expansion program that includes the construction of a new runway and the extension of an existing runway. It is my understanding that this important project is the result of many years of negotiations between the cities of Cleveland and Brook Park. This project cannot go forward unless the current deed restrictions are waived.

Mr. Speaker, this legislation will ensure that the city of Cleveland shall receive fair market value for this parcel, and the city will be required to use any and all of the funds for the development, improvement of operations or maintenance of the Cleveland Airport.

I want to commend the gentleman from Ohio [Mr. LATOURETTE] for his leadership and strong support for this legislation and his willingness to answer the call of his constituents on this very important matter.

Mr. Speaker, I urge all of my colleagues to support S. 1347.

Mr. Speaker, I reserve the balance of my time.

Mr. LIPINSKI. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, I rise in support of S. 1347, a bill which would remove a deed restriction and permit land to be transferred from Cleveland Hopkins International Airport to the city of Brook Park, OH.

For several years the cities of Brook Park and Cleveland have been trying to reach agreement on an airport project which necessitates the transfer of land between the two cities. An agreement has now been reached. Eighty-five acres of land currently belonging to the airport will be transferred to Brook Park in exchange for approximately 300 acres which are needed for the runway project.

This legislation is not controversial. It is supported by both local Congressmen, the gentleman from Ohio [Mr. LATOURETTE] and the gentleman from Ohio [Mr. KUCINICH]. The administration does not object. It has already passed the Senate. Economic development in the Cleveland area will benefit from the passage of this legislation. I urge my colleagues to join me in passing S. 1347.

Mr. Speaker, I reserve the balance of my time.

Mr. DUNCAN. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. LATOURETTE].

Mr. LATOURETTE. Mr. Speaker, I thank the gentleman from Tennessee [Mr. DUNCAN] for not only his leadership, but for making sure that this bill expeditiously gets to the floor.

Mr. Speaker, the purpose of this legislation is to provide authority to the Secretary of Transportation to waive a deed restriction on the parcel of land currently under the ownership of the city of Cleveland for aviation purposes. Since 1970, Congress has granted this authority to the Secretary; however, the parcel in question was deeded by the Federal Government to the city of Cleveland in 1967 and is currently restrained by a reverter clause.

This noncontroversial conveyance of the land from the city of Cleveland to the city of Brook Park is critical to the expansion plans for Cleveland Hopkins Airport. It is supported by the Federal Aviation Administration given its importance for public aviation purposes.

I have been honored to have the assistance of my colleague from Cleveland, OH [Mr. KUCINICH]. He represents this portion of the city of Cleveland, and I represent the city of Brook Park, and he cosponsored the House companion language to S. 1347. We also are thankful to our senior Senator from the State of the Ohio for moving this bill through the Senate. The bill enjoys bipartisan support from the leadership of the House Committee on Transportation and Infrastructure.

Mr. Speaker, Congress has a history of enacting specific provisions that

allow the Secretary to waive reverts and other deed restrictions for deeds preceding 1970. I would appreciate the support of the House to support this technical correction for public aviation purposes.

Mr. LIPINSKI. Mr. Speaker, I yield such time as he may consume to the gentleman from Cleveland, OH [Mr. KUCINICH].

Mr. KUCINICH. Mr. Speaker, I first want to begin by thanking the gentleman from Tennessee [Mr. DUNCAN] for his leadership and for his help in moving this along. Certainly that could not have been done without his help and with the help of my good friend the gentleman from Ohio [Mr. LATOURETTE] with whom we share this project.

The gentleman from Ohio [Mr. LATOURETTE] has made sure that all the things that needed to be done to get this through the legislative process have been accomplished and really deserves a lot of credit for his assistance.

I also want to thank my good friend the gentleman from Illinois [Mr. LIPINSKI] for his efforts and for his willingness to be here to help us move this legislation. I appreciate his help in this, and it is gratefully appreciated, the guidance that he has given us as to how we could achieve this moment.

The gentleman from Illinois [Mr. LIPINSKI] and the gentleman from Ohio [Mr. LATOURETTE] both know the help that we got from Senator GLENN on this as well.

This particular bill will assist and improve airport transportation not only in the city of Cleveland, but throughout this country. It has the strong support of Cleveland's business community, which has worked for years to try to achieve this agreement between Brook Park and Cleveland, which can now be consummated through the approval of this legislation.

I appreciate the support, the bipartisan support, which brought us to this moment. I appreciate the support of the Congress on this bill.

Mr. LIPINSKI. Mr. Speaker, I yield back the balance of my time.

Mr. DUNCAN. Mr. Speaker, I, too, yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Tennessee [Mr. DUNCAN] that the House suspend the rules and pass the Senate bill, S. 1347.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

#### GENERAL LEAVE

Mr. DUNCAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to

revise and extend their remarks and include extraneous material on the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

#### ANNOUNCEMENT OF LEGISLATION TO BE CONSIDERED UNDER SUSPENSION OF THE RULES TODAY

Mr. LATOURETTE. Mr. Speaker, I wish to announce the following suspensions for the 1-hour notice requirement: H.R. 2977, S. 1378, S. Con. Res. 61, S. Con. Res. 62, S. Con. Res. 63, H.R. 2979, H.R. 764, H.R. 2440, H.J. Res. 95, H.J. Res. 96, S. 1079 and H.R. 1604.

#### CLARIFICATIONS TO PILOT RECORDS IMPROVEMENT ACT OF 1996

Mr. DUNCAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2626) to make clarifications to the Pilot Records Improvement Act of 1996, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2626

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. RECORDS OF EMPLOYMENT OF PILOT APPLICATIONS.

Section 44936(f) of title 49, United States Code, is amended—

(1) in paragraph (1) by striking "Before hiring an individual" and inserting "Subject to paragraph (14), before allowing an individual to begin service"; (2) in paragraph (1)(B) by inserting "as a pilot of a civil or public aircraft" before "at any time"; (3) in paragraph (4)—

(A) by inserting "and air carriers" after "Administrator"; and

(B) by striking "paragraph (1)(A)" and inserting "paragraphs (1)(A) and (1)(B)";

(4) in paragraph (5) by striking "this paragraph" and inserting "this subsection";

(5) in paragraph (10)—

(A) by inserting "who is or has been" before "employed"; and

(B) by inserting ", but not later than 30 days after the date" after "reasonable time"; and (6) by adding at the end the following:

"(14) SPECIAL RULES WITH RESPECT TO CERTAIN PILOTS.—

"(A) PILOTS OF CERTAIN SMALL AIRCRAFT.—Notwithstanding paragraph (1), an air carrier, before receiving information requested about an individual under paragraph (1), may allow the individual to begin service for a period not to exceed 90 days as a pilot of an aircraft with a maximum payload capacity (as defined in section 119.3 of title 14, Code of Federal Regulations) of 7,500 pounds or less, or a helicopter, on a flight that is not a scheduled operation (as defined in such section). Before the end of the 90-day period, the air carrier shall obtain and evaluate such information. The contract between the carrier and the individual shall contain a term that provides that the continuation of the individual's employment, after the last day of the 90-day period, depends on a satisfactory evaluation.

"(B) GOOD FAITH EXCEPTION.—Notwithstanding paragraph (1), an air carrier, without obtaining information about an individual under paragraph (1)(B) from an air carrier or other person that no longer exists, may allow the individual to begin service as a pilot if the air carrier required to request the information has made a documented good faith attempt to obtain such information."

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Tennessee [Mr. DUNCAN] and the gentleman from Illinois [Mr. LIPINSKI] each will control 20 minutes.

The Chair recognizes the gentleman from Tennessee [Mr. DUNCAN].

Mr. DUNCAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2626, as amended, was approved by the Subcommittee on Aviation on October 23 and by the full Committee on Transportation and Infrastructure on October 29. This bill was introduced on October 7 by myself; the chairman of the full Committee on Transportation and Infrastructure, the gentleman from Pennsylvania [Mr. SHUSTER]; the ranking member of the full committee, the gentleman from Minnesota [Mr. OBERSTAR]; and the ranking member of the Subcommittee on Aviation, the gentleman from Illinois [Mr. LIPINSKI]. We also have many additional cosponsors representing all areas of the country.

Last year this subcommittee and the Congress passed legislation, H.R. 3536, requiring airlines to check a pilot's performance records before hiring them. In fact, the House approved the bill by a vote of 401 to 0. This legislation followed seven fatal accidents involving commuter airlines in which pilot error was to blame. The pilot had a record of poor performance at his previous employer, and the record of that poor performance was not checked before the airline hired him.

The Subcommittee on Aviation held 2 days of hearings on this subject in December 1995 before passing H.R. 3536 in July of last year. H.R. 3556 was eventually incorporated into the FAA Reauthorization Act, which the President signed in October of last year. This law currently requires airlines and the FAA to share a pilot's performance record with the prospective employer within 30 days of a request from that employer.

The problem is that the FAA is not meeting the 30-day deadline. This creates problems for many small aviation businesses that need to hire pilots quickly. In fact, I have heard from several of these small businesses from all across the Nation. As a result, H.R. 2626 was introduced with bipartisan support, as I have previously mentioned.

The bill would first allow all airlines to hire and train pilots, but not actually fly passengers while waiting to receive the pilot's records; and, secondly, allow small air taxis, those that one

can charter, but that do not fly scheduled service, to hire and train and also to fly passengers for 90 days while waiting to receive the pilot's records.

□ 2245

Finally, Mr. Speaker, H.R. 2626, as amended, would also require an airline to provide a pilot with his or her records as requested within 30 days. This was based on a recommendation from the Air Line Pilots Association and is consistent with other sections of the law.

H.R. 2626 is a good bill, a bipartisan bill, and enjoys support from all sectors of the aviation industry. I urge its adoption.

Mr. Speaker, I reserve the balance of my time.

Mr. LIPINSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2626, a bill making clarifications to the Pilots Records Improvement Act. The act, which was passed last year, required airlines hiring pilots to obtain pertinent safety information from the Federal Aviation Administration, the National Drivers Registry, and former airline employers. Ensuring that potential employers had access to this type of information enhanced safety and that airlines could make more informed hiring decisions.

The modifications contained in this bill clarify certain provisions in last year's legislation. In addition, it permits carriers to hire and train pilots prior to receiving records but would still require that they could not operate commercial flights until the records were received and reviewed. The House passed a version of this bill last year that contained this provision, but it was modified in conference.

Finally, it recognizes that air taxis are a unique segment of the aviation industry and one that has been disproportionately impacted by last year's legislation. Typically air taxis are small businesses. Although there is a legislative requirement that a requesting carrier be forwarded pertinent records within 30 days, we recognize that this is frequently not happening. Carriers sometimes wait for several months before receiving requested records.

This delay, while troubling, is not a significant problem for major carriers with a large pilot work force. However, when a single pilot represents 20 to 25 percent of the work force, the company's finances are severely affected. While I do not condone the failure of various entities to comply with the statutory requirement to provide pilot records within 30 days, I recognize that this failure threatens to put many air taxis out of business.

Consequently, this bill would allow air taxis to permit pilots to begin to fly commercial operations for up to 90 days while waiting for required

records. I believe the provision's limited applicability does not undermine the intent of the original legislation.

I urge the FAA to enforce this existing requirement that records be provided within 30 days and take whatever enforcement action may be necessary to ensure that records are forwarded within this time frame.

Mr. Speaker, both last year's legislation on this matter and the bill before us today have broad bipartisan support. I commend the gentleman from Tennessee, [Mr. DUNCAN], for his leadership on this bill. The bipartisan manner in which he guides the subcommittee strongly enhances our ability to improve aviation safety. I also recognize the help and support of the chairman and ranking member of the committee, the gentleman from Pennsylvania [Chairman SHUSTER], and the gentleman from Minnesota, the ranking member [Mr. OBERSTAR]. I urge my colleagues to join me in supporting this important legislation.

Mr. Speaker, I yield back the balance of my time.

Mr. DUNCAN. Mr. Speaker, I would simply at this point like to thank the gentleman from Illinois [Mr. LIPINSKI] for the cooperation and the friendship and the bipartisan way in which he has conducted all of his activities and has represented his side on all aviation matters. I have been told by several people that he and I have about the best relationship of any chairman and ranking Member in the Congress. I do not know whether that is true or not, but if it is not true, it is close anyway. I just wanted to say that for the record.

Mr. Speaker, I have no further speakers at this time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Tennessee [Mr. DUNCAN] that the House suspend the rules and pass the bill, H.R. 2626, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

#### GENERAL LEAVE

Mr. DUNCAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 2626, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

#### ANNOUNCEMENT OF BILL TO BE CONSIDERED UNDER SUSPENSION OF THE RULES TODAY

Mr. DUNCAN. Mr. Speaker, I would like at this time to announce the following additional suspension: H.R. 765.

#### FOREIGN AIRLINES FAMILY ASSISTANCE ACT

Mr. DUNCAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2476) to amend title 49, United States Code, to require the National Transportation Safety Board and individual foreign air carriers to address the needs of families of passengers involved in aircraft accidents involving foreign air carriers, as amended.

The Clerk read as follows:

H.R. 2476

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. PLANS TO ADDRESS NEEDS OF FAMILIES OF PASSENGERS INVOLVED IN FOREIGN AIR CARRIER ACCIDENTS.

(a) IN GENERAL.—Chapter 413 of title 49, United States Code, is amended by adding at the end the following:

#### “§ 41313. Plans to address needs of families of passengers involved in foreign air carrier accidents

“(a) DEFINITIONS.—In this section, the following definitions apply:

“(1) AIRCRAFT ACCIDENT.—The term ‘aircraft accident’ means any aviation disaster, regardless of its cause or suspected cause, that occurs within the United States; and

“(2) PASSENGER.—The term ‘passenger’ includes an employee of a foreign air carrier or air carrier aboard an aircraft.

“(b) SUBMISSION OF PLANS.—A foreign air carrier providing foreign air transportation under this chapter shall transmit to the Secretary of Transportation and the Chairman of the National Transportation Safety Board a plan for addressing the needs of the families of passengers involved in an aircraft accident that involves an aircraft under the control of the foreign air carrier and results in a significant loss of life.

“(c) CONTENTS OF PLANS.—To the extent permitted by foreign law which was in effect on the date of the enactment of this section, a plan submitted by a foreign air carrier under subsection (b) shall include the following:

“(1) TELEPHONE NUMBER.—A plan for publicizing a reliable, toll-free telephone number and staff to take calls to such number from families of passengers involved in an aircraft accident that involves an aircraft under the control of the foreign air carrier and results in a significant loss of life.

“(2) NOTIFICATION OF FAMILIES.—A process for notifying, in person to the extent practicable, the families of passengers involved in an aircraft accident that involves an aircraft under the control of the foreign air carrier and results in a significant loss of life before providing any public notice of the names of such passengers. Such notice shall be provided by using the services of—

“(A) the organization designated for the accident under section 1136(a)(2); or

“(B) other suitably trained individuals.

“(3) NOTICE PROVIDED AS SOON AS POSSIBLE.—An assurance that the notice required by paragraph (2) shall be provided as

soon as practicable after the foreign air carrier has verified the identity of a passenger on the foreign aircraft, whether or not the names of all the passengers have been verified.

"(4) LIST OF PASSENGERS.—An assurance that the foreign air carrier shall provide, immediately upon request, and update a list (based on the best available information at the time of the request) of the names of the passengers aboard the aircraft (whether or not such names have been verified), to—

"(A) the director of family support services designated for the accident under section 1136(a)(1); and

"(B) the organization designated for the accident under section 1136(a)(2).

"(5) CONSULTATION REGARDING DISPOSITION OF REMAINS AND EFFECTS.—An assurance that the family of each passenger will be consulted about the disposition of any remains and personal effects of the passenger that are within the control of the foreign air carrier.

"(6) RETURN OF POSSESSIONS.—An assurance that, if requested by the family of a passenger, any possession (regardless of its condition) of that passenger that is within the control of the foreign air carrier will be returned to the family unless the possession is needed for the accident investigation or a criminal investigation.

"(7) UNCLAIMED POSSESSIONS RETAINED.—An assurance that any unclaimed possession of a passenger within the control of the foreign air carrier will be retained by the foreign air carrier for not less than 18 months after the date of the accident.

"(8) MONUMENTS.—An assurance that the family of each passenger will be consulted about construction by the foreign air carrier of any monument to the passengers built in the United States, including any inscription on the monument.

"(9) EQUAL TREATMENT OF PASSENGERS.—An assurance that the treatment of the families of nonrevenue passengers will be the same as the treatment of the families of revenue passengers.

"(10) SERVICE AND ASSISTANCE TO FAMILIES OF PASSENGERS.—An assurance that the foreign air carrier will work with any organization designated under section 1136(a)(2) on an ongoing basis to ensure that families of passengers receive an appropriate level of services and assistance following an accident.

"(11) COMPENSATION TO SERVICE ORGANIZATIONS.—An assurance that the foreign air carrier will provide reasonable compensation to any organization designated under section 1136(a)(2) for services and assistance provided by the organization.

"(12) TRAVEL AND CARE EXPENSES.—An assurance that the foreign air carrier will assist the family of any passenger in traveling to the location of the accident and provide for the physical care of the family while the family is staying at such location.

"(13) RESOURCES FOR PLAN.—An assurance that the foreign air carrier will commit sufficient resources to carry out the plan.

"(14) SUBSTITUTE MEASURES.—If a foreign air carrier does not wish to comply with paragraphs (10), (11), or (12), a description of proposed adequate substitute measures for the requirements of each paragraph with which the foreign air carrier does not wish to comply.

"(d) PERMIT AND EXEMPTION REQUIREMENTS.—The Secretary shall not approve an application for a permit under section 41302 unless the applicant has included as part of the application or request for exemption a plan that meets the requirements of subsection (c).

"(e) LIMITATION ON LIABILITY.—A foreign air carrier shall not be liable for damages in any action brought in a Federal or State court arising out of the performance of the foreign air carrier in preparing or providing a passenger list pursuant to a plan submitted by the foreign air carrier under subsection (c), unless the liability was caused by conduct of the foreign air carrier which was grossly caused by conduct of the foreign air carrier which was grossly negligent or which constituted intentional misconduct."

(b) CONFORMING AMENDMENT.—The table of sections for such chapter is amended by adding at the end the following:

"41313. Plans to address needs of families of passengers involved in foreign air carrier accidents."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the 180th day following the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Tennessee [Mr. DUNCAN] and the gentleman from Illinois [Mr. LIPINSKI] each will control 20 minutes.

The Chair recognizes the gentleman from Tennessee [Mr. DUNCAN].

Mr. DUNCAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Subcommittee on Aviation unanimously approved H.R. 2476, as amended, on Thursday, October 23, and the full Committee on Transportation and Infrastructure approved the bill on October 29. This legislation was introduced by the gentleman from Guam [Mr. UNDERWOOD] shortly after the terrible Air Korea disaster which recently occurred on Guam. Both the gentleman from Illinois [Mr. LIPINSKI], the ranking member of the subcommittee, and I, are original cosponsors of the bill.

It essentially mirrors legislation in the Aviation Disaster Family Assistance Act, H.R. 3823, which the Subcommittee on Aviation unanimously approved and the House overwhelmingly supported by a vote of 401 to 4 last year. This legislation was eventually incorporated into the Federal Aviation Administration Reauthorization Act which the President signed in October of last year.

H.R. 2476 would require foreign airlines that have permits to fly in the United States to file family assistance plans with the Department of Transportation and the National Transportation Safety Board. These assistance plans would be activated when a foreign carrier crashes on U.S. soil.

The plans must include provisions such as the establishment of a toll-free telephone number for families, the efficient notification of passengers' families before public notice is given, the return of victims' possessions to family members, unless they are needed for the investigation, and many other similar provisions which all U.S. carriers must comply with now.

H.R. 2476 will surely help the families who have lost loved ones in these tragic air disasters by providing the needed

support and coordination necessary to assist in these unfortunate events.

Mr. Speaker, it is my understanding that the Senate Committee on Commerce has already acted on similar legislation. This bill has the support of both the Department of Transportation and the National Transportation Safety Board. Again, I believe this is an outstanding bill, a bill that is very much needed, and I urge its adoption.

Mr. Speaker, I reserve the balance of my time.

Mr. LIPINSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am an original cosponsor of H.R. 2476, the Foreign Airlines Family Assistance Act. This bill would amend the Aviation Disaster Family Assistance Act which was passed last year as a result of several tragic accidents last year. It came to the attention of the subcommittee that the treatment of the families of airline accident victims needed to be improved.

Last year's legislation required all airlines to submit accident action plans to the Department of Transportation. It also designated the National Transportation Safety Board to act as a liaison between various Federal, State, and local government agencies, the airlines, and the families to ensure that they were receiving accurate and timely information.

Last year's legislation attempted to address the many concerns that the subcommittee heard in the two hearings that were held on this issue. What the subcommittee neglected to appreciate was that every day U.S. citizens fly on foreign carriers, which was not included in that legislation.

This omission was tragically highlighted when a Korean Airline flight crashed short of the runway in Guam earlier this year. The support and coordination that the legislation would have required to have been in place did not exist for the families of those victims. The gentleman from Guam [Mr. UNDERWOOD] saw this inequity and worked with the subcommittee and administration to expand the applicability of the Aviation Disaster Family Assistance Act to foreign carriers and flights between the United States and a foreign point.

Thanks to his efforts, the subcommittee's omission last year is being corrected today. This bill has broad support, bipartisan support, as well as the support of the administration.

I would like to say at this particular time I appreciate the work of the gentleman from Guam [Mr. UNDERWOOD] and I thank my colleagues, the gentleman from Tennessee [Mr. DUNCAN], the gentleman from Pennsylvania [Chairman SHUSTER], and the ranking Democratic member, and the gentleman from Minnesota [Mr. OBERSTAR] for their assistance in this effort. I urge all my colleagues to pass this very important piece of legislation.

Mr. Speaker, at this time I want to say it has been a pleasure once again this year working with the chairman of the Subcommittee on Aviation, my very good friend, the gentleman from Tennessee [Mr. DUNCAN]. I look forward to another very productive year next year, and I am sure that our bipartisan spirit will continue to pave the way in the area of aviation.

Mr. Speaker, I yield back the balance of my time.

Mr. DUNCAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I also would like to once again thank the gentleman from Illinois [Mr. LIPINSKI] and say maybe if they want to pass some of this controversial legislation, they should just turn it over to the gentleman from Pennsylvania [Mr. SHUSTER] and me.

Mr. UNDERWOOD. Mr. Speaker, I introduced this bill on September 15, 1997, about a month after the crash of Korean Air Flight 801 on Guam. As many of my colleagues know, the Foreign Air Carrier Family Support Act is a consequence of this tragic episode. Of the 254 people on board the flight, 228 perished. And linked to these 254 people are numerous family members and friends who suffered along with their loved ones as they waited to hear news about the crash victims.

The people of Guam combined efforts with Federal officials, military personnel, and volunteers from Guam and off-island to search, rescue, and treat victims involved in the Korean Air crash. I cannot emphasize enough the diligence and compassion demonstrated by these groups of individuals.

As in any major disaster, there are many things which we think could have been done differently. The ValuJet and TWA disasters produced the Aviation Disaster Family Assistance Act of 1996, requiring domestic airlines to submit family assistance plans. With H.R. 2476, I am asking my colleagues to make this law applicable to foreign airlines which operate in the United States and its territories. The Foreign Air Carrier Family Support Act would require foreign air carriers to submit family assistance plans should their air carrier crash on American soil.

From establishing a toll-free number for victims' families to consulting family members on the construction of monuments dedicated to a crash, H.R. 2476 provides guidelines for foreign air carrier family assistance plans. Other points include that upon request, foreign air carriers will provide and update a list of passengers' names, and an assurance that, upon request, possessions owned by the victim will be returned to families. Although I have mentioned only a couple of measures contained in H.R. 2476, I hope I have demonstrated the fact that this bill will increase the level of efficient service provided to family members as they cope with the loss of a relative.

I wish to thank Chairman DUNCAN and Congressman LIPINSKI, ranking member of the Aviation Subcommittee, for agreeing to be original cosponsors of this bill and to help pass this legislation in committee. I also wish to thank the National Transportation Safety Board, the Department of Transportation, Task Force on Assistance to Families in Aviation

Disasters, the State Department, and 23 of my colleagues who have chosen to cosponsor H.R. 2476.

I encourage the rest of my colleagues to vote for the passage of the Foreign Air Carrier Family Support Act. American families all over the world will thank you.

Ms. JACKSON-LEE of Texas.

Mr. Speaker, I rise today in strong support of H.R. 2476, the Foreign Airline Family Disaster Assistance Act. This bill extends to foreign airlines operating in the United States the same family assistance requirements imposed upon U.S. airlines.

Following the July 1996 crash of TWA Flight 800 off the coast of Long Island, Congress passed legislation requiring the National Transportation Safety Board and all U.S. airlines to take certain actions to compassionately address the needs of the families of airline crash victims. This law applied to U.S. airlines only, however, and not to foreign airlines—even if a foreign airline crashes in the United States.

Since that time, the need to extend this legislation to foreign airlines, has become clear. The pain, frustration, and turmoil experienced by the families of the 228 victims of the August 1997 Korean Airlines Flight 801 crash in Guam brought this need home to us all. At a time, when they were faced with immense grief and a terrible loss, they were mired in an insensitive and unresponsive bureaucracy.

We hope that with the passage of H.R. 2476, we can forestall others from suffering these same pains. This legislation will require foreign airlines to submit to the Transportation Department and the National Transportation Safety Board a plan for providing special assistance to the families of victims of fatal airline crashes that occur in the United States. Airlines would be required to publicize a reliable toll-free number and provide staff to handle calls from family members. Additionally, the airline would be required to notify families as soon as possible, and in person when possible, of the fate of their loved ones, using suitably trained individuals for this purpose. Airlines would be required to provide passenger lists to the National Transportation Safety Board's family advocate and to the Red Cross. The airline would also be required to return a victim's personal effects to the family when requested to do so. An airline would be required to consult with family members regarding any monuments to the victims that may be built. Finally, airlines would be required to assist families in traveling to the accident site, and to provide for their comfort while there. Under the measure, airlines that do not meet this plan could be denied permission to operate in the United States.

The loneliest people in the world are those left behind when their loved ones are killed in such a tragic and terrible manner. These are catastrophic accidents and while we are not always able to prevent such disasters, we can vote now to ensure that families touched by such tragedy will receive competent, compassionate, and efficient assistance during their time of great need. I urge my colleagues to vote in support of this compassionate legislation.

Mr. DUNCAN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Tennessee [Mr. DUNCAN] that the House suspend the rules and pass the bill, H.R. 2476, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

#### GENERAL LEAVE

Mr. DUNCAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 2476, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

#### CONFERENCE REPORT ON S. 1026, EXPORT-IMPORT BANK REAUTHORIZATION ACT OF 1997

Mr. CASTLE. Mr. Speaker, I move to suspend the rules and agree to the conference report on the Senate bill (S. 1026) to reauthorize the Export-Import Bank of the United States.

(For conference report and statement, see proceedings of the House of November 7, 1997, at page H10210.)

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Delaware [Mr. CASTLE] and the gentleman from New York [Mr. FLAKE] each will control 20 minutes.

The Chair recognizes the gentleman from Delaware [Mr. CASTLE].

Mr. CASTLE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this important bipartisan legislation reauthorizes the Export-Import Bank of the United States, Eximbank, for an additional 4 years.

Reauthorizing Exim is critical to supporting America's ability to export and will help ensure that American businesses and American workers are able to compete and win against subsidized foreign competition in today's global market. This common-sense legislation is good for America; it advances the national interests, helps reduce the trade deficit, and enhances our export competitiveness.

Briefly, the conference report provides for the following: First, a 4-year extension of the bank's authority through September 30, 2001; second, an extension of tied-aid authority; third, an extension of the authority for providing financing for the export of non-lethal defense articles; fourth, a clarification of the President's authority to deny bank financing based on national interest concerns; fifth, creation of an Assistant General Counsel for Administration; sixth, authorization for the establishment of an Advisory Committee

to assist the bank in facilitating U.S. exports to sub-Saharan Africa; seventh, a requirement that two labor representatives be appointed to the Bank's Advisory Committee; eighth, a requirement that the bank's chairman design an outreach program for companies that have never used its services; ninth, identification of child labor as a human right which can serve as a basis for a Presidential determination to deny applications for credit based on national interest concerns; and, tenth, the denial of export financing for sales to the Russian Government or military if that country transfers SS-N-22 missile systems to China, the President determines that such action represents a significant and imminent threat to the security of the United States, and the President also requests the Bank to cease that export financing.

□ 2300

At this time, I would like to extend my deep appreciation to all of the members of the conference committee and others who have worked so hard in support of Exim, beginning with the chairman of the Committee on Banking and Financial Services, the gentleman from Iowa [Mr. LEACH], as well as the gentleman from New York [Mr. LAFALCE], the gentleman from Nebraska [Mr. BEREUTER], and the gentleman from Illinois [Mr. MANZULLO].

In particular, I would like to express my gratitude for the extraordinary help and cooperation of the gentleman from New York [Mr. FLAKE], not only on this legislation, but for the extraordinarily productive partnership we have shared in serving together on the Subcommittee on Domestic and International Monetary Policy. It has been a privilege for me to serve with the gentleman on this subcommittee. Frankly, I cannot imagine how we are going to manage without the gentleman, or his first rate chief of staff Shawn Peterson. We will miss them both.

In closing, I believe this is a non-controversial conference report. It deserves enthusiastic bipartisan support. I urge its immediate adoption.

Mr. Speaker, I reserve the balance of my time.

Mr. FLAKE. Mr. Speaker, I yield myself such time as I may consume.

I rise this evening in support of the conference report, S. 1026, the Export-Import Bank Reauthorization Act of 1997. The gentleman from Delaware [Mr. CASTLE] and I are proud to preserve the ideas and efforts of the House in our deliberations with the other body. We both believe that this conference report is indicative of our good working relationship on the Subcommittee on Domestic and International Monetary Policy.

First, we instruct the State Department to expressly use the CHAFEE amendment process when it has na-

tional interest concerns with potential Exim deals. Moreover, this provision has been enhanced to explicitly include child labor abuses in recipient countries. We also preserved an advisory panel to counsel the bank on efforts to increase the U.S. exports to Sub-Saharan Africa. These efforts reflect a bipartisan commitment to increasing trade with Africa, and are indicative of and positive efforts by the administration, the Congressional Black Caucus, the Speaker, the trade-oriented leaders of Congress. I believe this is the right thing to do, and I am happy to have created this panel as I leave Congress.

The conference report preserves a mandated ethics counseling unit within Exim. Consequently, we ensure that employees have the best possible ethical advice when major financing decisions are made.

The conference report also adopted modified provisions of the House bill that experience the labor communities' representation on the bank's advisory panel, a provision that instructs the bank to reach out to small businesses and language which clarifies the bank's role in expanded job opportunities and economic growth within the United States.

Let me expand my remarks by stating that we need the Export-Import Bank. The need was always in mind during the rather difficult negotiations with the other body with respect to most of the House amendments that had been adopted on this floor. I am pleased to state that the gentleman from Iowa [Mr. LEACH], the gentleman from New York [Mr. LAFALCE], the gentleman from Delaware [Mr. CASTLE], the gentleman from Nebraska [Mr. BEREUTER], and I were never in disagreement on these issues. Accordingly, our belief in bipartisan solidarity, our belief in the necessity of the bank, and our duty to preserve the House provisions are reflected in this conference report.

It is in this spirit that we reached a very difficult agreement on prohibiting export financing to Russia, should it export SS-22 missile systems to China. This provision clearly identifies a major policy concern of the Congress and still cedes to the executive branch the flexibility to use its expertise in the areas of intelligence and threat assessment.

So while we keep what most conferees consider to be a difficult and dangerous precedent with respect to Exim's role in foreign policy, we arrived at this consensus position, which, in my opinion, will work for both the bank and the author of this amendment.

I close by noting that there are detractors of the agency, and we certainly are cognizant of corporate welfare arguments. This line of reasoning, however, ignores the fact that 81 percent of Exim's financing deals go to

small businesses. It also ignores the reality that for the 19 percent of deals that Exim does with large enterprises, it inherently still maintains the operations of small businesses as contractors and suppliers. These enterprises operate throughout the Nation and employ thousands of Americans. Thus, if we examine the institution's impact on American employment, we cannot come to the conclusion that Exim is the exclusive concessional window of credit to corporate America. Rather, it is the lender of last resort, and is successful in financing billions of dollars in U.S. exports for a rather small budget. In short, we need Exim, and I intend to support its reauthorization and I ask my fellow colleagues to please join me in doing so.

I am grateful to the gentleman from Iowa [Mr. LEACH], the gentleman from New York [Mr. LAFALCE], the gentleman from Texas [Mr. GONZALEZ], and particularly to the gentleman from Delaware [Mr. CASTLE], who I have had the privilege of working with over the last 3 years as he has served as chairman of this committee with judiciousness, with balance, and with a bipartisan spirit. I would pray that whoever replaces me as the ranking member of this committee will approach the gentleman from Delaware [Mr. CASTLE] with the same spirit that he will approach them. That is as a gentleman, as a person who really understands what it means to do legislation in a fashion where there is a degree of comity.

I would also like to thank Mr. John Lopez of his staff and Mr. Shawn Peterson of my staff, for without them we would not have been able to be as successful as we have been over these last 3 years.

Mr. Speaker, I reserve the balance of my time.

Mr. CASTLE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I appreciate the comments of the gentleman from New York [Mr. FLAKE]. I hope that whoever his successor is in the position as ranking member approaches it with at least 50 percent of the spirit he has for what we do and we will be well served.

Mr. Speaker, I yield such time as he may consume to the gentleman from Iowa [Mr. LEACH], the distinguished chairman of the Committee on Banking and Financial Services.

Let me just say that he is a wonderful individual to work with on these issues, a man that truly understands international financing, as well as international relations, and it made a big difference on this legislation, and we appreciate it.

Mr. LEACH. Mr. Speaker, let me thank the distinguished chairman of the subcommittee and say in behalf of the House what a wonderful job he has done in leading this Congress on this issue, and also what a wonderful job

the gentleman from New York [Mr. FLAKE] has done. I think, speaking for this side, it is pretty self-apparent we are going to miss the gentleman very badly, and we hope in prayerful consultation he will figure out another way to rejoin the public fray at some point in the future.

Let me make a couple of process observations and then go to the substance.

First, I know of no issue that has been addressed in a more bipartisan, bicameral, biinstitutional way, bipartisan symbolized by the gentleman from New York [Mr. FLAKE] and the gentleman from New York [Mr. LAFALCE], who has been so thoughtful in his additions to this subject matter, and frankly who, in an amendment that did not prevail and I am hopeful that in the next year will, because it is one of the most thoughtful amendments that I think has come up on this subject matter in recent years.

Second, it is interesting, because the time this is being considered is 8 or 10 hours before this Congress is about to be divided, divided philosophically and divided by interest groups. Labor and the business community really have their dukes up on what is called the fast track bill.

In this bill, the organized labor community of the United States and the business community is in total concert, with thorough support. I would like to give an example.

When I recently spoke at a group in my home area in the Quad Cities in East Moline, Illinois, on the other side of the Mississippi River, the United Auto Workers and the leadership of Deere & Company came together to express their thanks for what the Eximbank had done to be able to provide them the resources to in effect send a large number of combines to the Newly Independent States, the former Soviet Union. If there was a greater example of swords into plough shares, I do not know it, all made possible by the Export-Import Bank.

Sometimes it is important to use examples, and let me use a couple of others from my congressional district. In River Dale, Iowa, is the largest Alcoa processing plant for the development of aluminum that goes on the wings of every single Boeing aircraft sold. In Cedar Rapids, also in my congressional district, is the Collins Radio Division of Rockwell, which makes instrument panels of the vast majority of aircraft exported from the United States of America. Without the Export-Import Bank, literally in my congressional district, we would have thousands fewer jobs. What should be stressed is that these are fewer jobs of the highest, best kind in my district.

So from a district perspective, this makes good sense. But we have to look at things first from the national perspective. And here I think this coun-

try, as we look around the world and look at the export versus import equation, which is running against the United States, not to give the benefit of the doubt to those programs that advance exports would be a major mistake.

In terms of cost, there is a modest cost in this bill. On the other hand, over the last several decades, the Export-Import Bank has approximately broken even on the ledger sheet, but more importantly, if one combined the income from the taxes to corporations and individuals based upon jobs that are created, the country is running well ahead of the game. So this is a very cost-effective program.

Finally, let me just say with regard to an observation of the gentleman from New York [Mr. FLAKE], I want to commend the leadership of this Export-Import Bank under the Clinton administration for moving more impressively towards the small business community. And even though, if we take an order for combines that might come from Deere & Company, there might be foundries that are small business, seat manufacturers that are small business and other suppliers that will be small business. There are also small business ventures themselves that are getting increasing attention from the Export-Import Bank, and I think that is a very fine trend.

So let me just say in conclusion, I believe this is a good judgment of the Members, a good judgment of the administration, and good policy for the United States.

Mr. FLAKE. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. LAFALCE].

Mr. LAFALCE. Mr. Speaker, I rise to support the adoption of the conference report to accompany Senate 1026, the Export-Import Bank Reauthorization Act of 1997.

Mr. Speaker, 63 years ago the Congress chartered the Export-Import Bank to support the financing of United States exports when private sector financing was not available to support those exports for sale in overseas developing markets.

The United States economy in 1934 was quite different than today's financial good times, but the need for export financing is as necessary in 1997 as it was in those post-depression days. For small businesses alone in fiscal year 1996, there were almost 2000 Export Bank transactions valued at \$2.4 billion, and the volume of Export Bank business grows daily.

The conference report we consider today extends the authority of the Export Bank and its Tied Aid Credit Fund through September 2001. For the most part, each of the amendments adopted in the House are reflected in the conference report. The conferees worked diligently, however, to ensure that the

thrust of the House amendments be reflected in the overall policy and practices of the Export Bank. Yet, we made sure that there would be no provisions in the report which would impair the bank's ability to function effectively to support the export market.

So on balance, this conference report is very good public policy and deserves the bipartisan support of the entire House.

In closing, Mr. Speaker, I would be very remiss if I did not recognize the support of the gentleman from Iowa [Mr. LEACH], the chairman of the Committee on Banking and Financial Services, and the extraordinary work of the chairman and ranking member of the Subcommittee on Domestic and International Monetary Policy. The gentleman from Delaware [Mr. CASTLE], the subcommittee chairman, led the reauthorization fight, despite the fact that Members in this body might have been pleased to see the work of the bank abandoned.

Also, the tremendous work of the gentleman from New York [Mr. FLAKE], the subcommittee's ranking member, has been widely discussed because he is leaving the House shortly. There are many things for which he can be remembered, but now the 4-year extension of the Export Bank can remain as another visible reminder of the outstanding quality of Congressman FLOYD FLAKE's contributions to the United States Congress and to the American public.

□ 2315

Mr. CASTLE. Mr. Speaker, I yield such time as he may consume to the gentleman from Nebraska [Mr. BEREUTER], another gentleman who has a strong understanding of international finance and the importance of it to America.

Mr. BEREUTER. Mr. Speaker, I thank the gentleman for yielding me this time and for his kind words.

Mr. Speaker, I was in my office, turned on the TV, and realized that the conference report was on the floor and hurried over here quickly. I am extremely pleased to see that the House and the Congress will have a chance to complete its work on the reauthorization of the Export-Import Bank. I think it is a very good step for America.

I am very pleased that the House conferees have also been able to take the sense and the spirit and the wording and the dramatic impact of what the House had earlier voted upon. I feel that the five conferees in the House have stood together and brought a very good result to the House. Everyone should feel comfortable and enthused, in fact, about passing this legislation. I do appreciate the words of commendation and join in them for the chairman, the gentleman from Iowa [Mr. LEACH], who gave us the support to get this legislation through conference and to the floor here tonight.

I particularly, however, want to concentrate my remarks on the gentleman from Delaware [Mr. CASTLE] and the gentleman from New York [Mr. FLAKE], who have worked in excellent fashion, and in tandem and individually have done a tremendous job on this legislation as it came to the floor, as it was crafted in committee and in the conference.

The gentleman from New York, of course, as mentioned, is leaving, but whether or not he was leaving, he should be commended for the kind of work that he has done on the Committee on Banking and Financial Services over the years.

I did not get a chance to join in those commendations on the House floor earlier, but his work on urban development, housing, and exports has been really extraordinarily positive for the country, and for his constituents as well.

So we are going to miss him, I say to the gentleman from New York [Mr. FLAKE], and we wish him very great success in his continued work with his religious flock and for the development activities he is so much involved in in his own State.

Mr. Speaker, in closing, I want to say that I think that the work we have done to refine the CHAFEE amendment, the work we have done to extend the provisions for the sale of, the financing of the guarantees of dual use technology, especially as it relates to the air control system, have proven to be a very important step as the nations of Eastern and Central Europe have moved from communism to embrace democracy.

This has been good for our national interest, for our defense, and for our industrial base. Likewise, we have seen those kinds of benefits come to American industry with respect to sales in Latin America.

So Mr. Speaker, I urge strongly support for this legislation. It is in the best interests of this country.

Mr. FLAKE. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, I would just like to say to the gentleman, I thank him for his remarks. If I had any second thoughts about it, when I finished my sermon about 1 o'clock this morning, I was up at 5 o'clock to preach my 6:30, 8:30 and 11 o'clock services, I was on the shuttle at 2 o'clock and on the floor at 11:20, so any second thoughts I had, the Lord removed them today with this schedule.

Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. KEN BENTSEN].

Mr. BENTSEN. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in support of this conference report. I want to commend the chairman of the subcommittee on which I served and the ranking member, the gentleman from New York [Mr.

FLAKE], as well as the chairman and ranking member of the Committee on Banking and Financial Services for the work they did, and the other conferees.

Mr. Speaker, this is a terribly important bill that we are passing. Sometime later tonight or perhaps early tomorrow morning, we may or may not take up the issue of fast track. There will be a lot of debate held about trade and what the United States ought to be doing in trade. But the bill that we are considering right now is terribly important because markets are not always efficient. We know in the finance market and in the export market that we have many allies who heavily subsidize their exports, some to the extent of 20 or 30 percent of their export market.

What we do in the United States through the Export-Import Bank is to provide in effect a matching subsidy for the banks and the other financial institutions where the private market will not go. It only makes up, I believe, about 2 percent or so of our export market, but it is a very important part, because without it, many U.S. companies would just simply not be able to participate in these world markets. Therefore, we would lose any competitive advantage we might have, and ultimately we would lose jobs in those industries.

So regardless of how Members intend to vote, either later tonight or sometime tomorrow, whenever we do this, however long we keep the gentleman from New York [Mr. FLAKE] here for that particular debate, I hope that they will support this bill, because this is very important. This is not corporate welfare.

In closing, Mr. Speaker, let me also add my support and accolades for the ranking member, the gentleman from New York [Mr. FLAKE]. I think it is important to note, and it was not mentioned in great detail, that the gentleman from New York, while a Representative from New York, has only been there on assignment from a higher authority and will return there, but he and I are both from Houston, Texas, originally. At some point we hope that he will return.

He is often back in Houston and in my district, and I look forward to seeing him in his other and now to be his main or only capacity in preaching. He has a great number of followers in Houston, not just for his religious activities, but was in Houston recently and met with a number of fellow ministers from my district, all of whom are very eager to come up and see the model which he has built in his district. We look forward to doing that. I appreciated the opportunity to have served with the gentleman in the Congress, and I look forward to working with him later on.

Mr. FLAKE. Mr. Speaker, I thank the gentleman for his comments, and I

yield such time as he may consume to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, I rise in support of this conference committee report on the Export-Import Bank. I want to thank the subcommittee and committee chairmen for their work in conference, as well as our friend and colleague, the gentleman from New York, Mr. FLOYD FLAKE, and to add my positive recognition of his work and their work, his work throughout his service in Congress, and the work especially in this conference committee.

Mr. Speaker, I had added an amendment on the floor, an important amendment to me, one that I think built on the protocols in terms of some of the strictures in the export administration law with regard to child labor, and I am appreciative of the fact that the Members did go to conference and keep the spirit if not the letter of that particular provision within the bill. I really appreciate being consulted upon that matter while it was in conference, and the work that was done to in fact keep it within the context of this conference.

This is an important tool that we have in terms of export. Historically, of course, it has been used by some of the larger manufacturing concerns in the U.S. in the jobs that they create. Some of the companies and institutions have been mentioned this evening. We have some, certainly, from Minnesota. But more importantly, it has in recent years been the focus on smaller- and middle-sized businesses that are moving into the export market.

While we will have a big debate on trade tonight, I think all of us recognize we are going to be involved in the global economy. These tools that provide the type of direct credit, the guarantees and credit insurance, are enormously important in order to facilitate that process.

I would point out to my colleagues, certainly the members of the committee on which I serve, the Committee on Banking and Financial Institutions, are aware of it, but so often this credit is put in place and these newly emerging nations, for instance, the nations of the former Soviet Union, the newly emerging states, where in fact the type of financial underpinning and structure is not in place, and they need the additional credit in order to facilitate the purchase of U.S. products or other products. We could do it with subsidies; we could do it with other types of assistance. This has been an effective and very efficient way to do it, which capitalizes or builds and leverages our private sector banks and financial institutions to accomplish this.

But in any case, Mr. Speaker, this is a good measure. It has been an especially difficult year to deal with it, because of the climate with regard to this

type of institution. For that, I think the gentleman from Delaware, Mr. MIKE CASTLE, subcommittee chairman, and Chairman LEACH and others that have worked in this really did a masterful job in terms of advocating this on the floor, and through the Congress to enactment or to the President, and final enactment today hopefully will be successful.

I certainly support it.

Mr. Speaker, I rise today in support of the Export-Import (Ex-Im) Bank Reauthorization bill. Typically, this authorization is an exercise that receives scant attention and afterthought. Granted it has its detractors that denounce its practices as corporate welfare, but the criteria of Ex-Im assistance has remained relatively intact. I am pleased that this bill breaks with tradition, and includes an amendment I offered to the House bill that denies U.S. Ex-Im assistance to companies that violate child labor laws. For the first time child labor violations will serve as the basis for a determination to deny companies U.S. Ex-Im assistance.

By directing loans, loan guarantees, and credit insurance, Ex-Im Bank fills an important niche in our sales abroad, especially in environments where financial institutions are not stable. That could be the Newly Independent States of the former Soviet Union or any other region where the economy is developing anew. This is a sound program that speaks to American jobs and U.S. businesses. It is a partnership with the federal government that works. Clearly, in the context of extending these specific credit assurances of opportunities, we should be certain that worker rights, environmental issues, and intellectual and financial property rights are safeguarded. As we move forward to reauthorize the Ex-Im program for an additional four years, and as we continue to push for smaller business export loans and benefits, we should initiate new policy guidelines to enhance our efforts and goals. The Vento child labor amendment is one such important effort.

Child labor practices today reveal an unprecedented tragedy of a far greater magnitude than what transpired in a less global economic marketplace. The International Labor Organization estimates that over 250 million children worldwide under the age of 15 are working instead of receiving basic education. That is 250 million reasons to ensure that U.S. Ex-Im guarantees, insurance, and loans take the extra step to protect against the exploitation of child labor by U.S. companies and partners. Because we neither investigate nor know the child labor practices of the companies we assist, this language is essential in drawing attention to the child labor practices. It also presents the potential for increased involvement on behalf of Non-Governmental Organizations to discover and publicize specific child labor abuses.

I realize no single nation or single agency can eradicate the child labor problem. However, we should deliberately pursue each opportunity in order to turn the tide on the inappropriate employment of young children. If we help these U.S. companies, then we should expect that they and their partners reflect and follow fundamental U.S. values and laws. Both symbolically and substantively, the U.S. must

set an example as we advance and engage in the global marketplace.

There is no other practice so universally condemned, yet so universally practiced as the exploitation of child labor. Crimes committed against children around the world, that this Congress is so adamant to speak out against, should not be encouraged or tolerated by our own government policies. We all recognize the depth of this problem, yet as a nation we do little to protect children from exploitation. For example, one of the most important measures of the 105th Congress, fast track negotiating authority, does not recognize child labor protections as a legitimate negotiating objective. Foreign investment, intellectual property, both made the list of trade objectives. We have always gone to great lengths to enhance and protect the profits and rights of companies at home and abroad, while ignoring the rights of working people, particularly children. Are the world's children not deserving of the same support? For those that want to keep child labor protections out of trade agreements, child labor is merely a harsh reality that makes good economic sense.

I hope that this language will help make the invisible visible and generate the significant public pressure that is necessary to make political progress on child labor protections. Our trade policy must promote progress in wages, living standards, and human rights here in the U.S. and around the globe. It should not undermine progress in these important areas or legitimize the status quo. This language ensures that there will be more U.S. responsibility in the strategy for the eradication of exploitative child labor. It gives each of us the opportunity to stand up for children, who even marginally, may be contributing to a subsidized U.S. export product.

Mr. FLAKE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would also like to include among our thanks Mr. Jamie McCormick of the staff of the gentleman from Iowa [Mr. LEACH], because without the cooperation of the full committee chairman and the cooperation of his staff, much of what the gentleman from Delaware [Mr. CASTLE] and I have been able to achieve could not have happened.

I thank again all of those who have offered remarks, and certainly I look forward to, as I leave this place, remaining in relationship and friendship with all of the Members.

Mr. Speaker, I yield back the balance of my time.

Mr. CASTLE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would, too, like to thank all the great staff. I mentioned Sean Peterson before, but Jamie McCormick and John Lopez of our staff, they all did really a wonderful job on that. I would like to thank all those who spoke tonight who are very thoughtful, from the chairman, the gentleman from Iowa [Mr. LEACH] on down. These are people who have thought a lot about this, and do, I think, a wonderful job of handling these difficult and complex issues.

Mr. Speaker, obviously, in final words for our friend, the gentleman from New York, Mr. FLOYD FLAKE, I thought it was just me for a while who thought he was an exceptional individual to work with, and then I began to realize that a lot of people in this House thought that.

I missed the tribute on the floor. I got there when he was actually speaking. I came back to my office from actually being down and meeting on this particular bill. I realized later what everybody said about him. I guess we always say nice things about each other, but I do not know of anyone in this House who is truly more respected, liked and admired than the gentleman from New York, Mr. FLOYD FLAKE. He has done an exceptional job, not just in this subcommittee, but in general, and it is with a great amount of sadness that, while it may not be, we still have a coin bill coming along, but it may be the last bill we are going to handle, and I would like to add my homage to what everybody has said about him.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Delaware [Mr. CASTLE] that the House suspend the rules and agree to the conference report on S. 1026.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the conference report was agreed to.

A motion to reconsider was laid on the table.

#### EXTENDING CERTAIN PROGRAMS UNDER THE ENERGY POLICY AND CONSERVATION ACT

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 317) providing for the agreement of the House to the Senate amendment to the bill, H.R. 2472, with an amendment.

The Clerk read as follows:

H. RES. 317

*Resolved*, That, upon the adoption of this resolution, the bill H.R. 2472, to extend certain programs under the Energy Policy and Conservation Act, be, and the same is hereby, taken from the Speaker's table to the end that the Senate amendment to the text of the bill be, and the same is hereby, agreed to with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate, insert the following:

#### SECTION 1. ENERGY POLICY AND CONSERVATION ACT AMENDMENTS.

The Energy Policy and Conservation Act is amended—

(1) in section 166 (42 U.S.C. 6246) by striking "1997" and inserting in lieu thereof "1998";

(2) in section 181 (42 U.S.C. 6251) by striking "September 30, 1997" both places it appears and inserting in lieu thereof "September 1, 1998"; and

(3) in section 281 (42 U.S.C. 6285) by striking "September 30, 1997" both places it appears

and inserting in lieu thereof "September 1, 1998".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Colorado [Mr. DAN SCHAEFER] and the gentleman from Texas [Mr. HALL] each will control 20 minutes.

The Chair recognizes the gentleman from Colorado [Mr. DAN SCHAEFER].

GENERAL LEAVE

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous matter on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill we will be sending back to the other body reauthorizes a provision of the Energy and Conservation Act related to the Strategic Petroleum Reserve and the U.S. participation in the international agreement for 1 fiscal year.

These provisions, which expired September 30, assure that if there is an energy emergency, the President's authority to draw down the Strategic Petroleum Reserve and the ability of U.S. oil companies to participate in the international energy agreement without violating antitrust laws is preserved for another year.

As I stated when the House passed this bill earlier this year, because of their importance to the U.S. national energy security, I believe these programs should not go unauthorized. At the same time, I believe requiring them to be reauthorized annually is appropriate as long as oil from the Reserve continues to be sold for budgetary purposes.

□ 2330

It is my hope that when DOE completes its review of the SPR policies, we can work with the administration and the appropriators to develop a coherent and consistent policy regarding the future of the reserve.

Mr. Speaker, I reserve the balance of my time.

Mr. HALL of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I will not have any speakers. I rise in support of the bill. I would like to have a colloquy with the gentleman from Colorado, Mr. DAN SCHAEFER.

I thank the chairman for his leadership and for his hard work to ensure that the Energy Policy and Conservation Act is reauthorized. EPCA provides the authority for the U.S. to cooperate with their international allies during world oil crises, to alleviate shortages in calm markets.

Mr. DAN SCHAEFER of Colorado.

Mr. Speaker, will the gentleman yield? Mr. HALL of Texas. I yield to the gentleman from Colorado.

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, I thank the gentleman from Texas [Mr. HALL] for his work and agree that we must have EPCA in place, particularly in light of the ongoing events in the Middle East.

Mr. HALL of Texas. Mr. Speaker, reclaiming my time, I would like to propose to my good friend from Colorado also that while this simple extension of existing authority is a good thing, we need to take a closer look early next year at the need to update EPCA's antitrust provisions.

Mr. DAN SCHAEFER of Colorado. If the gentleman would continue to yield, I thank the gentleman again for his remarks, and I agree that the Committee on Commerce and other affected committees should take a closer look at this issue to ensure that our national interests are fully protected and we can meet our treaty obligations.

Mr. HALL of Texas. Mr. Speaker, I thank the gentleman from Colorado, Mr. DAN SCHAEFER. I think we ought to get on top of this sooner rather than later next year, when we have time to consider the matter thoroughly. We ought not to wait until EPCA expires next September. Maybe by then we will be comfortable providing for a longer-term reauthorization.

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, I certainly agree with the comments of my colleague. We have worked very closely together in the past, and I want to continue to do that, particularly on this issue and any other issue that deals with our committee. But we have to ensure that we have energy policy in this country that is going to be best for the American citizens.

Mr. DINGELL. Mr. Speaker, I rise with a sense of profound disappointment to speak reluctantly in support of H. Res. 317, and only because we have no better alternative. Notwithstanding disturbing hourly reports from the Middle East, Members of the House has been presented with an unpleasant and wholly unnecessary choice. We can either vote for this barebones, better-than-nothing reauthorization of the most essential parts of the Energy Policy and Conservation Act—our nation's first line of defense in dealing with an international oil crisis—or we can take our chances that the Act, which has already been allowed to lapse, will not have to be deployed during the next 2 months while the Congress is out of session.

Since 1984, the United States has sought to persuade our international partners to graduate from a cumbersome and outdated oil allocation plan to a more market oriented "coordinated stock drawdown" policy under which each country would release petroleum stocks to forestall any shortages. This type of approach, which was tried out during Desert Storm, shows great promise and has finally been accepted by our allies and the International Energy Agency.

Neither of these policies, however, can work without the cooperation and assistance of both U.S. and international oil companies. In times of severe supply shortages or market instability, the I.E.A. needs real time information about the location and movement of oil stocks and refined produces with only these companies can provide. EPCA was drafted with an appreciation of these need for partnership, and included from the beginning a "limited antitrust defense" to ensure companies are not prosecuted for actions they are requested to take by government during an oil emergency.

This is exactly the type of voluntary cooperation Congress should be encouraging. For three years now, the Administration and the U.S. oil industry have been asking Congress to update EPCA's antitrust provisions to permit them to assist the U.S. government and the I.E.A. in carrying out a coordinated stock drawdown. The Senate's bill includes language supported by both the Administration and industry.

Unfortunately, H. Res. 317 does not address the antitrust issue. Hearings have been held, testimony has been provided, and no objection has been voiced to the type of changes the Administration has proposed and the Senate has adopted. This is an entirely unnecessary omission, and represents a failure by the House and its leadership to properly discharge their responsibilities. Let no one be mistaken—in the event that international oil markets suffer a severe shock in the coming months, the I.E.A. will be hamstrung in its ability to temper the impact on consumers and financial markets because U.S. oil companies will not be able to participate fully. This is a mistake which could have been averted had the necessary homework been done at the proper time.

While I support H. Res. 317 and urge members to vote for the resolution, I do so with a sense of regret and measure of anger at the choice with which this body has been presented.

Mr. HYDE. Mr. Speaker, I ask that this exchange of letters between me and Chairman BILEY be placed in the RECORD following debate on H.R. 2472.

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON COMMERCE,  
Washington, DC, November 8, 1997.

HON. HENRY J. HYDE,  
Chairman, Committee on the Judiciary, U.S.  
House of Representatives, Washington, DC.

DEAR HENRY: Thank you for your letter regarding H.R. 2472, a bill to extend provisions of the Energy Policy and Conservation Act (EPCA) through September 1, 1998.

EPCA is one of the legislative cornerstones of our national energy security policy. Among other things, it authorizes the operation and maintenance of the Strategic Petroleum Reserve and provides limited immunity to American oil companies to participate in activities pursuant to the International Energy Agreement. In light of current actions in the Middle East and the important activities authorized by this Act, prompt passage of this EPCA extension is necessary.

I appreciate your interest in H.R. 2472 and I acknowledge that I will bring it to the House Floor in the form of a simple extension through September 1, 1998 without any substantive change to the antitrust provisions. I also acknowledge that your action in

allowing this legislation to go forward does not affect any future rights of the Committee on the Judiciary. Consistent with the Judiciary Committee's jurisdiction over anti-trust issues under rule X and with the Commerce Committee's jurisdiction over energy issues under Rule X, I would be pleased to work with you to develop legislation which ensures an effective national energy security policy.

In keeping with your request, I will place your letter and this response in the record of the debate on H.R. 2472.

Sincerely,

TOM BLILEY,  
Chairman.

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON THE JUDICIARY,  
Washington, DC, November 8, 1997.

HON. TOM BLILEY,  
Chairman, Committee on Commerce, U.S. House of Representatives, Washington, DC.

DEAR TOM: I understand that today or tomorrow you intend to move to suspend the rules and concur in the Senate amendment to H.R. 2472 with an amendment.

The version of H.R. 2472 you plan to bring up would extend through September 1, 1998 certain provisions of the Energy Policy and Conservation Act, 42 U.S.C. §6201 *et seq.* Under Rule X, the Committee on the Judiciary has jurisdiction over provisions of the Act: the antitrust defense provided in Section 252, 42 U.S.C. §6272, the participation of the antitrust enforcement agencies in activities under that section, and any amendment, extension, or expansion of these provisions or any other antitrust immunity provided in the Act.

Because of the urgency of passing this important national security legislation, I am willing to waive this Committee's right to a sequential referral of H.R. 2472. I will allow this legislation to go forward so long as it remains a simple extension through September 1, 1998 without any substantive change to the existing antitrust defense or the participation of the antitrust agencies. However, my doing so does not constitute any waiver of the Committee's jurisdiction over these provisions and does not prejudice its rights in any future legislation relating to these provisions or any other antitrust immunity provided in the Act. I will, of course, insist that Members of this Committee be named as conferees on these provisions or any other antitrust immunity provided in the Act should the bill go to conference.

If the foregoing meets with your understanding of the matter, I would appreciate your placing this letter and your response in the record during the debate on H.R. 2472. Thank you for your cooperation in this matter.

Sincerely,

HENRY J. HYDE,  
Chairman.

Mr. HALL of Texas. Mr. Speaker, I thank the gentleman from Colorado for his leadership on this issue, and I yield back the balance of my time.

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Colorado [Mr. DAN SCHAEFER] that the House suspend the rules and agree to the resolution, H. Res. 317.

The question was taken; and (two-thirds having voted in favor thereof)

the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

#### ILLEGAL IMMIGRATION REFORM AND IMMIGRANT RESPONSIBILITY ACT OF 1996 AMENDMENT

Mr. SMITH of Texas. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2920) to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to modify the requirements for implementation of an entry-exit control system.

The Clerk read as follows:

H.R. 2920

*Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. MODIFICATION OF ENTRY-EXIT CONTROL SYSTEM.

Section 110 of the Illegal Immigration Reform and Immigration Responsibility Act of 1996 is amended—

(1) in subsection (a), in the matter preceding paragraph (1), strike "Act," and insert "Act (and not later than 3 years after the date of the enactment of this Act in the case of land border points of entry)";

(2) in subsection (a)(1), strike "and" at the end;

(3) in subsection (a)(2), strike the period at the end and insert "; and";

(4) by adding at the end of subsection (a) the following:

"(3) not significantly disrupt trade, tourism, or other legitimate cross-border traffic at land border points of entry."

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. SMITH] and the gentleman from Michigan [Mr. CONYERS] each will control 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. SMITH].

GENERAL LEAVE

Mr. SMITH of Texas. Mr. Speaker, I ask unanimous consent that Members have 5 legislative days in which to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. SMITH of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Congress has required the Immigration and Naturalization Service to develop and implement a system to track the entry and exits of those crossing our borders. The purpose of this bill is to make sure that such a system will not substantially impede trade or traffic across our borders, both northern and southern.

The intent is, first, to set a reasonable time frame for the development and implementation of an exit/entry system and, second, to reaffirm that it is the policy of this Congress that such a system is to be developed so that, upon implementation, it will not sub-

stantially impede trade or border crossings.

Understandably, this matter may be of particular concern to those States along our northern border. Unlike the southern border, there are relatively few northern border entry points and they already are congested by high volumes of traffic frequently using one- and two-lane highways and bridges. Any further slowdown in the flow of such traffic could be seen as hurting the economies of many States, especially New York, Michigan, and Washington State, but also Minnesota, Wisconsin, Maine, Pennsylvania, Idaho, Montana, North Dakota, Vermont, and New Hampshire.

States along our southern border, where 2½ times as many individuals were inspected than were along our northern border in fiscal year 1997, are more experienced in addressing these kinds of problems. For instance, today in San Diego thousands drove across the border and were monitored electronically. Some entry points on our southern border have as many as 23 lanes to speed traffic.

Increased trade with Mexico has spurred investments in the construction of major new crossings elsewhere. What this bill does is reassure all Americans and our neighbors both to the north and to the south that, as the United States exercises its right to control its borders, it is also committed to facilitating trade.

We should expand our Nation's capacities to trade with our neighbors as well as facilitate the lawful crossing of citizens on both sides of our borders. Unfortunately, many people enter our country along our northern and southern borders legally but, wrongfully, never return home. Forty percent of the estimated 5 million illegal aliens in the country today entered in such a manner, overstaying their visas.

The United States needs to develop an entry-exit system to fairly and effectively address these illegal overstays, but we must do so in a manner that does not significantly disrupt trade, tourism, or other legitimate cross-border traffic.

Some may suggest this bill would set a different standard for people crossing our northern border. Any such suggestion is contradicted by the facts. This bill treats our southern and northern borders exactly the same. It makes no distinction.

Again, this bill is an affirmation of two important national policies; one, that we have a right and duty to control our borders; and, two, that it is in the best interest of the United States and our neighbors both to the north and south to act so as to facilitate trade and border crossings.

Our task in the House today is to ensure that border crossings will not be substantially impeded while we also protect the Nation's interest in being

able to control our borders. And that is exactly what this bill does.

Mr. Speaker, I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield as much time as he may consume to the gentleman from North Carolina [Mr. WATT], the ranking minority member.

Mr. WATT of North Carolina. Mr. Speaker, I rise in opposition to H.R. 2920.

As the ranking member of the Subcommittee on Immigration and Claims, I have had the opportunity this year to learn a great deal about America's borders and the importance of securing the borders against illegal immigration, narcotic, and alien smugglers, and potential terrorists. Because of this, I have supported efforts by the chairman of our subcommittee to increase security along the southwest border of the United States.

Because of the success along the southwest border, pressure has increased along the northern border. I recognize that there is a long tradition of openness between the United States and Canada along the northern border, but times are changing, and I believe our policies must adjust to reflect these changes.

There have been numerous incidents of alien smugglers bringing in hundreds of illegal immigrants across the border between Ontario and upstate New York. One of the terrorists on trial for participating in the conspiracy to blow up the Lincoln Tunnel in New York entered the United States from Canada. The Canadian border must be as secure as the southern border. Otherwise, we might as well put a neon light over the Canadian border inviting immigrants to come across it with impunity.

Section 110 provides that by October 1, 1998, the Attorney General will develop an automated entry and exit control system that will collect a record of departure of every alien departing the United States and match the records of departure with the records of aliens arriving in the United States. This would enable the Attorney General to identify folks who are overstaying their visas or staying in the country illegally.

In fairness, the language of this bill is neutral on its face and makes no direct reference to Canada. Make no mistake about it, however; this bill is about treating Canada and the northern border differently from Mexico and the southern border.

There are already stringent entry control systems in place along the southwest border. Because the INS has a record of every entry from Mexico, it is able to determine when someone entered the United States and whether they overstayed or violated the terms of that entry. This is not the case along the Canadian border.

Crossing into the United States from Canada is not unlike driving through a

toll booth. Passengers answer some routine questions, and if they are citizens or legal permanent residents of either Canada or the United States, they are flagged through. Once in the United States, Canadians are virtually indistinguishable from other Americans. Perhaps that is why Canada ranks fourth as the source country for illegal immigrants in the United States.

There are at least 120,000 Canadians working illegally in the United States, and none of these people entered the country illegally. Nearly half of all the illegal immigrants in the United States overstaying the terms of their valid tourist or student visa came in through the Canadian border. Overstaying or violating the terms of valid visas is the illegal immigration method of choice for Canadian, Europeans, and others who know that the INS will never find them.

Section 110 of the illegal immigration reform bill was specifically designed to give the INS the tools to combat this problem. If my colleagues are truly committed to combating illegal immigration in all its forms, if my colleagues want an immigration policy that does not distinguish between white Canadians and colored Mexicans, then we must enforce the laws on an equal basis and do it in a racially color-blind way.

I think this bill does not support that proposition, and I rise in opposition to the bill.

Mr. CONYERS. Mr. Speaker, I reserve the balance of our time.

Mr. SMITH of Texas. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. SOLOMON], the chairman of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman from Texas [Mr. SMITH] for yielding me the time.

I really am sorry that this bill is being characterized as dealing with only one of our borders. And I really am upset with the Congressional Quarterly, which put out a publication this morning here which said "U.S.-Canadian border controls," and it talks about our legislation.

Well, our legislation is sponsored by Members from all of the borders from all over the country. It is not just, sure, I am concerned about it because it deals with New York State. But my colleagues ought to, I think, listen carefully to the debate.

Last year, Congress did pass legislation which would require the Immigration and Naturalization Service to document the entry and departure of every alien in the United States beginning no later than September 30, 1998. That is really just around the corner when we start talking about putting in this kind of a program.

This legislation, with the best of intentions, was designed to prevent visa overstays and control the flow of illegal immigrants and the transmission of

illegal drugs, terrorism, and other things. The problem is that this legislation, as it is currently drafted, could have a devastating effect on commerce, on tourism, along the Texas border, the California border, and all across all of the borders across the northern United States, on both sides of the borders.

□ 2345

In New York State, we have many, many corporations that have corporations right across the border, and many United States citizens, New Yorkers, live in New York and work in Canada. There are many other corporations who have the same businesses in both countries and they have Canadian citizens that come across the border daily. Many of them are nurses and doctors, of which we have a real shortage in northern New York, for jobs.

Mr. MCHUGH. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from New York.

Mr. MCHUGH. The gentleman made mention of treating the two borders differently and I think that is an important fact. It is my understanding that this bill treats both borders equally, that the delay applies equally to both borders. So I would suggest to the gentleman that is not an issue in this particular context.

Mr. SOLOMON. Let me just say that this bill is simple. It delays the implementation of the exit and entry control system until 1999. It will take that long to implement the system, anyway, even if we were to let it go ahead.

In addition, it adds statutory language which specifically requires, and I think this is what we need to listen to, because this affects American jobs, this adds statutory language which specifically requires that any automated system, implemented by the INS, will not disrupt trade, tourism or any other legitimate border crossing traffic.

Mr. Speaker, the value of trade crossing on all our borders is immense. For instance, direct trade between New York State and Canada totaled \$24 billion last year alone. I could go on and on. In New York State, many merchants and communities along the Canadian border owe at least 50 percent of their business to Canadian visitors. The same thing is true in Texas and in California. I hope my colleagues can support the legislation. It is very important to us.

Mr. CONYERS. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. LAFALCE].

Mr. LAFALCE. Mr. Speaker, first, I strongly support this bill, although the bill does not go far enough. I support it in the hope that we can go further within conference with the Senate. Why does the bill not go far enough? Because it simply delays the effective date with respect to land borders from September 30, 1998 to September 30,

1999. The Clinton administration has said to this Congress section 110 cannot be enforced. The Clinton administration has said to this Congress with respect to land borders, repeal section 110 because it cannot be implemented. They have submitted legislation to this Congress calling for its repeal, and all we are doing in this bill is delaying the effective date for one year. The Clinton administration says it cannot be enforced, repeal it with respect to land borders.

Mr. Speaker, I have introduced some other bills. In September I introduced H.R. 2481. Yesterday I introduced a companion bill to Senator ABRAHAM's bill, H.R. 2955. I believe that the bill that Senator ABRAHAM has introduced in the United States Senate, to which a few dozen of us cosponsored yesterday, is the more appropriate approach.

I am not an expert on the Mexican border. I consider myself an expert on the Canadian border, however. When I was a young boy, I lived perhaps two blocks away from the Peace Bridge going from the United States to Canada and vice versa. That is where I played baseball, that is where I learned how to swim, play tennis. We used to walk across the Peace Bridge to Canada, to go swimming, to go fishing as easily as one would go from Virginia to Maryland to the District of Columbia, as easily as one would go from North Carolina to South Carolina. We pride ourselves on a shared border, on an open border. Do not regress in history. Do not turn aside 200 years of history and build a wall around the United States. Do not say to individuals, before you can leave the United States, we must document each and every person leaving the United States. We have never done that before, we ought not to do it now. At the very least, delay its implementation until September 30, 1999 rather than September 30, 1998, when cooler heads might be able to prevail.

Mr. SMITH of Texas. Mr. Speaker, I yield 2½ minutes to the gentleman from Michigan [Mr. KNOLLENBERG].

Mr. KNOLLENBERG. Mr. Speaker, I rise to enter into a colloquy with the gentleman from Texas [Mr. SMITH]. I have some concerns about H.R. 2920 that have been raised by the gentleman from New York [Mr. LAFALCE]. I do believe that section 110 of this immigration reform bill does require some revision, or some study.

As a Representative from Michigan, a State which shares a wide border with Canada, I have strong concerns about the impact that section 110 may have on States all across the northern border. Implementation of this system would slow commerce to a virtual standstill. Let me give Members an example in my State of Michigan. For example, in Detroit alone, in Port Huron, some 30,000 motorists, actually more than that, 30,000, at the Ambassador

Bridge alone cross daily. In fact, the President of the International Bridge Company has testified that that could result in backups, delays, and I am talking about people that work on both sides of the river, both sides, it would back up traffic perhaps halfway to Flint, Michigan, 40 or 50 miles, and on the Canadian side even further. In particular, this system would cripple the automotive industry and the local economy which, as Members, know depends upon just in time deliveries.

What I would like to do, if I could, I wanted to enter into a colloquy with the gentleman to make a determination, and I think the way the bill reads right now is that border crossings will not be substantially impeded. We have a great deal at risk here. I wanted to get the gentleman's assurance that that would be the case.

Mr. SMITH of Texas. Mr. Speaker, will the gentleman yield?

Mr. KNOLLENBERG. I yield to the gentleman from Texas.

Mr. SMITH of Texas. The gentleman is correct. The language in this bill is mandatory and says that the entry-exit system shall not significantly disrupt trade, tourism or other legitimate cross border traffic. I believe the bill will do exactly what the gentleman would like to see done.

Mr. KNOLLENBERG. If I could reclaim my time, I would like to just say that I think the gentleman from New York [Mr. LAFALCE] has an idea that is shared by a number of others. We want to do what obviously is best. We have some time now to do that. I thank the gentleman for making a clarification.

Mr. CONYERS. Mr. Speaker, I yield myself 1 minute.

To the distinguished gentleman from Texas, the chairman of the subcommittee, we never had hearings on this. This was introduced up in the Committee on Rules and shot through here like a bullet. This is a very important subject. Does the gentleman have any idea why we did not? It is our committee. It is the gentleman's subcommittee. We never had hearings. I guess that does not matter.

Now he comes here in the middle of the night telling us this is a very critical matter. We have all kind of hearings all year long on everything in the gentleman's subcommittee. I, for one, if I have any sympathies for this measure, do not like the process that it was carried on in.

I rise in strong opposition to H.R. 2920, providing for a 1-year delay in section 110 of last year's immigration bill (requiring a border card on the Canadian and Mexican borders).

No Member is more concerned about the potential problems caused by section 110 than I am. We can see Windsor, Canada from my district. Last year United States trade with Canada was over \$355 billion making it the largest exchange between any two countries in the world. Of that figure, 57 billion dollars worth of goods were traded with Michigan—

giving it a larger share of trade with Canada than any other State. The State Department has stated, "Section 110 represents a serious speed bump on the continued expansion of our economic relationships—one which could literally cause traffic across our northern land border to slow to a crawl."

However, H.R. 2920 is the wrong fix at the wrong time. This is a difficult problem which involves sensitive and complex issues concerning trade, drug running, tourism, and illegal immigration. Yet, the bill comes to this floor without the benefit of any committee hearings, debate, or report.

The bill is strongly opposed by the Canadian Government. They have written:

In a nutshell, Canada opposes the bill because it would only postpone a problem that really needs to be eliminated . . . under the present circumstances, the best course of action would be to refer H.R. 2920 to Committee, in order for it to be properly debated before being brought before the full House for a vote.

From my perspective, there are far preferable approaches available. The Senate has already conducted two hearings on the issue and Senator ABRAHAM has introduced legislation (S. 1360) which provides for a full exemption from the land border crossing requirements while we study the problems of implementing this vast new bureaucracy. A counterpart bill (H.R. 2955) has been introduced in the House which is supported by the administration.

In order to consider these and other responses, we need to vote this bill down today, so we can look at this issue in the Judiciary Committee with more than 24 hours notice.

H.R. 2920 is a "Band-Aid quick fix" which does not provide the proper solution for our border control concerns. Section 110 is not scheduled to be implemented until October 1998. We have plenty of time to hold committee hearings and develop a practical bipartisan solution to this problem.

I urge a "no" vote.

Mr. SMITH of Texas. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. CAMP].

Mr. CAMP. Mr. Speaker, I thank the gentleman for yielding me this time. I just want to mention that I know this legislation is approved also by the gentleman from Illinois [Mr. HYDE], the chairman of the committee. I think this is critical. I am glad that we are acting, because the implementation date of September 30, 1998 could cause tremendous disruption in Michigan, not only to tourist traffic but to trade and to our economy. I think this new statutory requirement that this automated system will be delayed until 1999, and it will not disrupt trade, tourism or other legitimate cross border traffic is a good thing. I strongly support the bill.

Mr. CONYERS. Mr. Speaker, I yield 1 minute to the gentleman from North Carolina [Mr. WATT].

Mr. WATT of North Carolina. I just find it very amazing that all of these representations are being said about what disruption is going to happen on

the Canadian border as if the same disruptions do not happen on the southeastern border and the southern border. There is absolutely no distinction between the northern border and the southern border. The same arguments that apply on the northern border apply on the southern border. All these people are talking about, well, 50 years ago I used to play on the Canadian border. Fifty years ago we all used to keep our doors unlocked at night. But nobody does that now. We have turned up the pressure on the southern border and people are going around, coming in the northern border as if it is a sieve. It was the Republicans who kept telling us last year that we had to secure our borders. Now they are back making exception after exception after exception.

PARLIAMENTARY INQUIRY

Mr. SOLOMON. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore [Mr. EVERETT]. The gentleman will state it.

Mr. SOLOMON. Mr. Speaker, I am confused about who is managing the time on that side of the aisle. I have heard the gentleman from Michigan [Mr. CONYERS] yield time, but then I am told that the gentleman from North Carolina [Mr. WATT] has the time. Who is managing the time on that side of the aisle? And how much time is remaining on both sides?

The SPEAKER pro tempore. The gentleman from Michigan [Mr. CONYERS] is managing the time for the minority.

Mr. SOLOMON. Mr. Speaker, how much time is remaining on both sides?

The SPEAKER pro tempore. The gentleman from Michigan [Mr. CONYERS] has 10¼ minutes remaining, and the gentleman from Texas [Mr. SMITH] has 10½ minutes remaining.

Mr. SMITH of Texas. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. MCHUGH].

(By unanimous consent, Mr. MCHUGH was allowed to speak out of order.)

REQUEST FOR AUTHORITY FOR SPEAKER TO DESIGNATE TIME FOR RESUMPTION OF PROCEEDINGS ON REMAINING MOTIONS TO SUSPEND RULES CONSIDERED MONDAY, SEPTEMBER 29, 1997

Mr. MCHUGH. Mr. Speaker, I ask unanimous consent that the Speaker be authorized to designate a time not later than the legislative day of November 14, 1997, for resumption of proceedings on the seven remaining motions to suspend the rules originally debated on September 29, 1997.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. WATT of North Carolina. Mr. Speaker, reserving the right to object, I am afraid I did not understand what the gentleman was doing in the midst of the debate on this bill. Would the gentleman restate what he is doing?

Mr. MCHUGH. Mr. Speaker, if the gentleman will yield, I am informed

that the unanimous-consent request had already been agreed to and I was reading the text of that into the RECORD.

Mr. WATT of North Carolina. There cannot be a unanimous consent that is agreed to if he is asking unanimous consent on the floor.

Mr. SOLOMON. Mr. Speaker, regular order.

Mr. WATT of North Carolina. Mr. Speaker, I reserve the right to object.

The SPEAKER pro tempore. The gentleman from North Carolina [Mr. WATT] has reserved the right to object.

Mr. MCHUGH. Mr. Speaker, I withdraw the unanimous consent request, and I yield to the gentleman from New York [Mr. SOLOMON].

□ 0000

Mr. SOLOMON. Mr. Speaker, evidently my good friend, the gentleman from North Carolina [Mr. WATT], and he is a good friend, did not hear my testimony earlier. I spoke about the borders of California, about the borders of Texas.

As my colleagues know, we are talking about all of the borders of this land. This legislation affects the borders on California, the borders on Texas, the borders on all across the northern part of the country. They are all affected the same, and we should not be trying to mislead, and I thank the gentleman from New York for having yielded me the time.

Mr. MCHUGH. Mr. Speaker, I would just add to my friend, the gentleman from Michigan [Mr. CONYERS], he asked why have we not had any hearings, and I think that is an appropriate point. I would suggest to him that this arose very quickly because very quickly the Immigration and Naturalization Service came to us in my office and said, "By the way you will be the lucky recipient of a test program." We felt that that had not had hearings. That indeed had not been an issue discussed, and I would suggest to the gentleman that the entire point behind delaying the implementation of this bill for years was to provide the gentleman and the gentleman from Texas [Mr. SMITH] and others who have a direct and very understandable interest in this with the opportunity to have the hearings, and therefore I believe we should support this for the very reasons he stated.

Mr. CONYERS. Mr. Speaker, I yield myself 1 minute.

Now there is no urgency on this bill. This is not an appropriation. This is not anything. It has not had a hearing, and here we are at midnight and one of the last days of the first session of the 105th Congress talking about a 1-year extension. We had plenty of time to hold all the hearings in the world in the Committee on the Judiciary, which the gentleman from Texas [Mr. SMITH] has never held on this subject. Now the Senate has held hearings on this sub-

ject, and by the way, the other body has no inclination whatsoever, whatsoever to pass this measure.

So what I am saying is that the best reason to be against this measure is that we do not understand its import and we are not in any rush. This measure does not expire until October 1998.

Mr. SMITH of Texas. Mr. Speaker, I yield 3 minutes to the gentleman from Minnesota [Mr. OBERSTAR].

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman for yielding this time to me.

I do not want to get caught in the crossfire of who had or did not have hearings, but there is some urgency to this matter, and it is very uncomplicated.

Mr. Speaker, I did not vote for this immigration bill to begin with because I thought it was going to have many of the problems that have come up because it is so complicated, and the border between the United States and Canada is one of the most complex. It is also the longest open, free, unguarded border in the entire world. Every day a billion dollars in goods and services cross the border from Canada to the United States and back and forth.

In an era of just-in-time delivery of goods, it is extremely important that we have a smooth flow across the U.S.-Canada border for that billion dollars daily of economic activity to survive. But with this legislation the more than 76 million people who enter the United States by land from Canada are going to line up, be checked in, have long waiting lines.

And let me just tell, my colleagues, what happens from the International Falls Daily Journal newspaper, the northern border of my district, a place that most of my colleagues will recognize as the cold spot of America. Right across the water is Fort Francis, Canada. Mark Elliot crosses the International Bridge of the United States nearly every day to visit his girlfriend in International Falls. Crossing between these countries normally takes very little time because he is such a familiar face, he and many other residents. But a law scheduled to take effect in 1998 will make his visits more difficult.

That is what it is all about. It comes down to one human being. This is a border control, this is an entry/departure control measure, it is not an inspection requirement. It is going to build up complexity between our two countries. It is going to build up complexity between the United States and Mexico. The amendment that we are considering tonight applies to both borders, will resolve these complexities.

I do not address the United States-Mexico situation because I do not live there, and I do not understand that problem, but I do understand United States-Canada, and for every individual

to have to have an entry or departure control document is going to, for those 76 million crossings, is going to be extraordinarily complex. I can imagine it would be even worse on the United States-Mexican border.

It is not difficult to understand the problem. This is a very simple fix of 1 year delay. Give us time to adjust, to think out, what this language means. We should not have passed that bill in the first place, but having passed it, this mistake ought to be corrected.

Mr. CONYERS. Mr. Speaker, I yield myself 20 seconds.

To the gentleman from Minnesota [Mr. OBERSTAR], my ranking member on the Committee on Transportation and Infrastructure, my best friend, No. 1, that guy with the girlfriend in Canada, one of them ought to move. No. 2, the Canadian Government, not that we give a hoot about their opinion, is totally opposed to what we are doing, not that that matters.

Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. REYES].

Mr. REYES. Mr. Speaker, I thank the gentleman for yielding this time to me, and now I can perhaps give some personal perspective to what is being discussed here this evening in the hypothetical, although I will tell my colleagues that hearing some of the impassioned reasons like trade, commerce, long waiting lines, tourism, congestion; as my colleagues know, they are discussing Canada, but they are describing the southern border with Mexico, and my good friend, the gentleman from Minnesota [Mr. OBERSTAR], made mention that perhaps this bill should never have been passed.

Well, absolutely there were a lot of things that were passed in this House before I was able to be here that should not have been passed. There were a lot of things that we are going to have to go back and address because they are simply not fair, and what we are doing here this evening is simply not fair.

And I can tell my colleagues as a ex-immigration officer, as an ex-border patrol chief, the gentleman from Michigan [Mr. CONYERS] is absolutely correct. If we shut down the southern border, guess where they are going to smuggle from? Guess where intelligence today tells the United States Border Patrol, the United States Customs, the United States Immigration Service, the United States Secret Service, guess where the focus of entry is? Guess where the only documented cases of entries into this country for terrorism have come through? It has not been through Mexico, because, no, we have been pretty darn tough on Mexico. It has been through the Canadian border, because, as several of my colleagues have said, heck, we have an open border up there.

I grew up there. I played baseball. I went back and forth. There is a gentleman that has got a girlfriend and

goes back and forth. Well, guess what? Those same things could describe the relationship between Texans and Mexico, between New Mexicans and Mexico, between Arizona and Mexico, between southern California and Mexico. All of those things are appropriate, all of those things apply to the southern border of the United States as well.

And my point here tonight is that this issue is about fairness. This issue is about listening to ourselves as we make these arguments in some inane way where the people on the southern border cannot understand us. First my colleagues want to be tough, then they want to be not so tough on the northern border. Well, my colleagues, it does not work that way. It does not work that way because the men and women that enforce the laws of this country, myself included for 26½ years, are impartial. We do not want to enforce one law on the southern border and another law on the northern border. We do not want to treat Canadians one way and Mexicans a different way.

Let us get a grip. If we want to be fair, if this country is going to remain the beacon of fairness, the beacon of liberty, the beacon of opportunity, then for God's sake let us do the right thing and let us apply the law equally on the northern border as it is on the southern border.

Mr. SMITH of Texas. Mr. Speaker, I yield 20 seconds to the gentleman from Minnesota [Mr. OBERSTAR].

Mr. OBERSTAR. Mr. Speaker, I simply want to respond to the concern of the gentleman and others who have spoken about shifting of drug trafficking from one border to another. I tell my colleagues we have got a wilderness border between the United States and Canada in my district, and the timberwolves will get them before anybody else gets across that border, believe me. There is no trafficking across that border.

Mr. CONYERS. Mr. Speaker, I yield myself 20 seconds.

There is not any trafficking across that part of the northern border, but there is plenty of drugs increasingly coming in at the northern border.

And one more thing, my colleagues. This bill is being represented as a temporary fix. What the real deal is is that it is going to be permanent, and we will never get to the hearings on the bill that everybody is for or against it. It never had hearings.

Mr. SMITH of Texas. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. QUINN].

Mr. QUINN. Mr. Speaker, I thank the gentleman for yielding this time to me.

I want to associate myself with the remarks of my good friend, the gentleman from New York [Mr. LAFALCE], earlier tonight. When my other dear friend, the gentleman from North Carolina [Mr. WATT], talks about the fact that there is absolutely no distinction

between these two borders, we are simply coming here tonight to tell our colleagues in a very calm, experienced way that we think there might be some distinctions, and we would like to share some of those differences with our colleagues if we see some. My other friend from Texas says that they are all the same, and I would suggest to him that this is exactly the reason we want to try to treat them the same.

Now, we had an opportunity tonight to hear about statistics and numbers and the amount of trade and the tourism that goes back and forth between at least the border that we know best, the Canadian border. I would like to suggest to the rest of my colleagues as we look at 2920 that there is also the people that are involved here entering into that equation.

When my good friend, the gentleman from New York [Mr. LAFALCE], talks about his knowledge and experience in the Buffalo area at the Peace Bridge, I want to add to that my own experience, and it is not ancient history, colleagues, it is not something that happened 50 years ago or 60 years ago, it is happening today. It is happening right now, and it is happening with young people, experienced people, whether it is drivers, whether it happens to be jobs, it is happening now.

And all we are suggesting to our colleagues is that we would like the time that 2920 suggests to have some of the hearing and some of the time that has been talked about, but we are not just trying to tell our colleagues that we are telling someone else what they should do. We have some experiences there, we know what is happening at that border, and we are suggesting to our colleagues that if this plan is implemented now, it will be disastrous to affect not only trade, not only jobs, not only commerce, all the good things my friend from Texas talked about, but also affecting people's everyday lives.

And it is not political, and it is not Democrat, or it is not Republican. We have got people from both parties here trying to add some intelligence to the discussion.

□ 0015

Mr. CONYERS. Mr. Speaker, I yield myself 15 seconds.

Mr. Speaker, we need experts like that to testify at a hearing. You know, we are at midnight talking about all the experts on immigration at the northern border, and we have not had one hearing on this whole thing. I suggest this suspension be turned back and that the Committee on the Judiciary do its job.

Mr. Speaker, I yield 1½ minutes to the gentleman from North Dakota [Mr. POMEROY].

Mr. POMEROY. Mr. Speaker, sometimes we screw up, and when we do, we need to take steps to fix it. When we passed the illegal immigration reform

bill, that put on to the INS the requirement to develop a system for documenting every alien entering and leaving this country by October of 1998. We put in place a system that could not work, that will not work, and that threatens commerce on both borders.

This is about delaying the effective date of that one year, and I believe we will even have to take additional steps, as outlined by the gentleman from New York [Mr. LAFALCE] and others.

Let me just show you North Dakota. I represent this State. It is a State that shares one of the longest borders with Canada in the entire country. It is absolutely vital to our commerce, more than \$50 million of commerce to North Dakota coming back and forth every year, 2 million border crossings in North Dakota alone.

This has not been a problem. What the people back home cannot understand is, when Congress makes a mistake, we all make mistakes, but why can we not fix the mistake before people get hurt?

I have got letters here from small businesses all across the State of North Dakota. Now, they are not involved in any of the high stakes and the high rhetoric about the immigration reform. All they know is, they need the daily flow of commerce like they have had it.

Please, please, do not hurt North Dakota's economy on a mistake that we did last year. Let us fix this mistake, or at least delay the implementation 1 year. Please pass this bill.

Mr. CONYERS. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. BILBRAY].

Mr. BILBRAY. Mr. Speaker, I ask my colleagues on both sides to listen to the discussion. I heard my colleague talk about when the borders used to be open in Canada. I remember walking up and down the beaches along the Mexican border all the time. We do it today.

But this debate is really showing that we need to have internal enforcement. Do not try to do it all at the border. I do not care if it is in my neighborhood, that of the gentleman from Texas [Mr. REYES] and mine with Mexico, or Canada.

I call on everyone saying that they want to see the good things continue to go across the border and to stop the bad things; let us finally sit down and work on internal enforcement. Do not try to do it all on the borders or all in the Canadian neighborhoods or in the Mexican neighborhoods of those of us who live next door to it.

Let us get together and say all of America should be participating in controlling illegal immigration. Not just those of us on the frontier who just happen to live along the border, but all Americans should join in this. Let us take this debate and accept that there is a problem here and in Mexico. Back and forth, we need to have a

check system. In Canada we need it. But we also need a check system on every employer and every social program in America.

Mr. CONYERS. Mr. Speaker, I yield 1 minute to the gentleman from Maine [Mr. BALDACCI].

Mr. SMITH of Texas. Mr. Speaker, I yield 1 minute to the gentleman from Maine.

The SPEAKER pro tempore [Mr. PEASE]. The gentleman from Maine [Mr. BALDACCI] is recognized for 2 minutes.

Mr. BALDACCI. Mr. Speaker, I thank the gentlemen for yielding me this time.

Mr. Speaker, I am almost hesitant to wade into this discussion going on, but I feel I must, especially since Maine does border Canada and we have been very deeply involved in this.

This is a very technical matter. It is a technical correction that is being offered, and it is something that is not a fight between the Mexican border or the Canadian border. Unfortunately, Section 110 overlooks the history and tradition of the longest peaceful border in the world, and that is shared northern borders with Canada.

For decades, most Canadian nationals have been exempt from registering with the I-94 documentation for entry into the United States. In 1996, more than 116 million people entered the United States by land from Canada, and 76 million more were Canadian nationals or U.S. permanent residents. Imposing a registration requirement on Canadians who otherwise are not required to possess a visa or passport will cause traffic tie-ups of chaotic proportions.

All this bill purports to do is, it purports to delay the implementation of the requirements on both borders. It is a technical correction.

Mr. WATT or North Carolina. Mr. Speaker, will the gentleman yield?

Mr. BALDACCI. I yield to the gentleman from North Carolina.

Mr. WATT of North Carolina. Mr. Speaker, I just want to say, people keep saying that. Understand, the Mexican border, the entry system is already in place. So this notion that we are delaying and it is just applying to equally is just not true.

Mr. BALDACCI. Mr. Speaker, reclaiming my time, this bill is a technical bill that only delays the implementation on both borders. It does not show a preference on one border or the other. It delays the implementation of the rule on both borders, so it is not showing preference. This is very badly needed because of the interests, especially of what we are talking about, because the Canadian Government does not only support moving in this direction, but they want to do it permanently. They are not in opposition to the direction, they just would like to have more instead of less.

We are 99.9 percent problem-free. We have an agreement between the United States and Canada that was a border agreement accord which was the framework of the border inspections.

I urge Members to support this legislation.

Mr. CONYERS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California [Mr. BECERRA].

Mr. Speaker, will the gentleman yield?

Mr. BECERRA. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Speaker, I wanted to appeal to the distinguished subcommittee chairman to consider withdrawing this bill. It is clear we need hearings. The smart thing for us to do at 12:20 in the morning is to take this thing back to the Committee on the Judiciary, where it has never been.

Mr. BECERRA. Mr. Speaker, reclaiming my time, I thank the gentleman for yielding me this time.

Mr. Speaker, I believe it was the chairman in the beginning of this debate that said that this country has the right and the duty to control our borders. Well, if we pass H.R. 2920, we will be asserting our right but we will be ignoring our duty.

You see, back in 1996, just a year ago, we passed a law that said that we must inspect our borders, both in terms of people entering and people leaving. For Mexico, last year we imposed that entry check, so anyone coming into this country from our southern border right now must go through this entry check.

It was not until this year, a year later, that the exit check for both Mexico and Canada was to take effect, along with the entry check for Canada, which did not take effect when the entry check for Mexico took place. Only now is that entry check now going to take effect in Canada.

But where was the outrage about the disruption to commerce, to tourism, to family ties, when we imposed the entry check on the U.S.-Mexico border? Now we hear the outrage. The same thing applies, but it is different treatment. What people are saying today is, if it was good enough for one part of the border, it is good enough for the rest of the borders.

What we have to understand is, what we do today if we pass this bill is say we are allowing and willing to allow people to come into this country, overstay their visas, and become undocumented individuals in this country.

Understand, there are people that cross through all parts of our border. If you vote for this bill, you are saying you are willing to allow people to overstay and become, as many of you term it, "illegal aliens." So understand, do not make any mistake about it, this is not to just conform the law, this is not to try to take care of disruption for commerce and family, this is an attempt to try to withhold the function

of the law, the application of the law, for one place but not for others. If it is fair for one place, it should be fair for all the others.

The SPEAKER pro tempore. All time for the gentleman from Michigan [Mr. CONYERS] has expired.

Mr. SMITH of Texas. Mr. Speaker, I yield myself 15 seconds.

Mr. Speaker, I want to say my friend from California has, I believe, made a statement that was inaccurate. The point of this bill, H.R. 2920, is not to eliminate an entry-exit system but simply to make the system more workable.

Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. LAFALCE].

Mr. LAFALCE. Mr. Speaker, first of all, I want to reiterate one point: That is, the Clinton administration favors repeal of section 110 with respect to land borders. The Canadian Government favors repeal also. This bill does not call for repeal; it calls for a 1-year additional delay.

I also want to thank the distinguished ranking Democrat on the Committee on the Judiciary, the gentleman from Michigan [Mr. CONYERS], for, number one, being an original cosponsor of the bill, H.R. 2481, repealing it; for being an original cosponsor of H.R. 2955, repealing it; for having testified before Senator ABRAHAM's hearing in Detroit respecting it; and for indicating at that time that when the technical corrections bill is taken up in the Committee on the Judiciary, he would offer an amendment to the technical corrections bill seeking repeal of section 110 with respect to land borders.

Until we get to that point though, let us delay its effective date for 1 year.

Mr. SMITH of Texas. Mr. Speaker, I yield 30 seconds to the gentleman from Washington [Mr. METCALF].

Mr. METCALF. Mr. Speaker, this issue is very critical to my district. I have the second largest traffic in the whole country, I believe, from the Blaine border crossing. It is very critical, very important. I believe this is a technical correction, and it is just very vital.

Mr. SMITH of Texas. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I urge my colleagues to support this bill, H.R. 2920. It will do two things: It will facilitate trade, and it will protect our borders. Most importantly of all, it has one fair standard for both borders, north and south.

Mr. Speaker, it will affirm America's commitment to facilitate lawful trade and border crossings with our northern and southern neighbors and also support development of a workable, and I emphasize the word "workable," border entry-exit system for all our borders.

Mr. NETHERCUTT. Mr. Speaker, I rise today in support of H.R. 2920, introduced by my colleague from New York, Mr. SOLOMON. H.R. 2920 would delay the implementation of

Section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act (P.L. 104-208) at land-based border entry ports from October 1, 1998, to October 1, 1999. Section 110 requires the Immigration and Naturalization Service [INS] to implement an entry-exit system at all entry points to the U.S. H.R. 2920 would still require the INS to implement an entry-exit system at U.S. airports and seaports by October 1, 1998, and would also require the INS to implement Section 110 in such a way that would not significantly disrupt or impeded trade or tourism.

I was a proud supporter of immigration reform last year, and believe that an entry-exit system should be an integral part of U.S. efforts to address illegal immigration. However, I believe Congress should provide the INS additional time to implement Section 110 at land-based border entry points. There are simply too many land-based entry points into the U.S., six in my district, for the INS to implement an entry-exit system by the end of next year. Allowing the INS to first implement an entry-exit system at U.S. airports and seaports should give the INS additional time to implement an entry-exit system in such a way that would not cause unnecessary delays at border crossing. Mr. SPEAKER, there have been numerous legislative proposals to address concern about Section 110, and I have been supportive of legislative corrections to Section 110. It is possible that Congress will pass such corrective legislation next year, but I believe this is too important an issue to leave unresolved until then. I thank my colleague from New York for introducing his bill at this time, and ask my colleagues to support H.R. 2920.

Mr. MCHUGH. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. SMITH] that the House suspend the rules and pass the bill, H.R. 2920.

The question was taken. Mr. WATT of North Carolina. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 325, nays 90, not voting 18, as follows:

[Roll No. 627]

YEAS—325

Ackerman	Bereuter	Bunning
Aderholt	Berman	Burr
Allen	Billrakis	Buyer
Andrews	Blagojevich	Callahan
Archer	Bliley	Calvert
Army	Blumenauer	Camp
Bachus	Blunt	Campbell
Baker	Boehlert	Canady
Baldacci	Boehner	Cannon
Ballenger	Bonilla	Cardin
Barcla	Bonior	Castle
Barr	Bono	Chabot
Barrett (NE)	Borski	Chambliss
Barrett (WI)	Boswell	Chenoweth
Bartlett	Boyd	Christensen
Barton	Brady	Clement
Bass	Brown (OH)	Coble
Bateman	Bryant	Collins

Combest	Istook	Petri
Condit	Jenkins	Pickering
Cook	John	Pickett
Cooksey	Johnson (CT)	Pitts
Costello	Johnson (WI)	Pombo
Cox	Jones	Pomeroy
Coyne	Kanjorski	Porter
Cramer	Kaptur	Portman
Crane	Kasich	Poshard
Crapo	Kelly	Pryce (OH)
Cunningham	Kennedy (MA)	Quinn
Danner	Kennelly	Radanovich
Davis (FL)	Kildee	Rahall
Davis (VA)	Kilpatrick	Ramstad
DeFazio	Kim	Redmond
DeGette	Kind (WI)	Regula
Delahunt	King (NY)	Riggs
DeLauro	Kingston	Rivers
DeLay	Klink	Roemer
Deutsch	Knollenberg	Rogan
Diaz-Balart	Kolbe	Rogers
Dickey	Kucinich	Ros-Lehtinen
Dicks	LaFalce	Royce
Dixon	LaHood	Ryun
Doolittle	Lampson	Sabo
Doyle	Latham	Sanders
Dreier	LaTourette	Sanford
Duncan	Lazio	Sawyer
Dunn	Leach	Saxton
Ehlers	Levin	Schaefer, Dan
Ehrlich	Lewis (CA)	Schumer
Emerson	Lewis (KY)	Sensenbrenner
Engel	Linder	Sessions
English	Lipinski	Shaw
Ensign	Livingston	Shays
Eshoo	Lofgren	Shimkus
Everett	Lowey	Shuster
Farr	Lucas	Slitsky
Fawell	Luther	Skaggs
Fazio	Maloney (CT)	Slaughter
Foley	Maloney (NY)	Smith (MI)
Forbes	Manton	Smith (NJ)
Fossella	Manzullo	Smith (OR)
Fowler	Markey	Smith (TX)
Fox	Mascara	Smith, Adam
Frank (MA)	McCarthy (MO)	Smith, Linda
Franks (NJ)	McCarthy (NY)	Snowbarger
Frelinghuysen	McCollum	Solomon
Furse	McDade	Souder
Galleghy	McGovern	Spence
Ganske	McHale	Spratt
Gejdenson	McHugh	Stabenow
Gekas	McInnis	Stearns
Gephardt	McIntosh	Stump
Gibbons	McIntyre	Stupak
Gilchrest	McKeon	Sununu
Gillmor	McNulty	Talent
Gilman	Meehan	Tanner
Goode	Menendez	Tauscher
Goodlatte	Metcalfe	Tauzin
Goodling	Mica	Taylor (NC)
Gordon	Miller (FL)	Thomas
Goss	Minge	Thornberry
Graham	Moakley	Thune
Granger	Mollohan	Thurman
Greenwood	Moran (KS)	Tiahrt
Gutknecht	Moran (VA)	Tierney
Hall (OH)	Morella	Towns
Hall (TX)	Murtha	Upton
Hamilton	Myrick	Vento
Hansen	Nadler	Visclosky
Hastert	Neal	Walsh
Hastings (WA)	Nethercutt	Wamp
Hayworth	Neumann	Watkins
Hefley	Ney	Watts (OK)
Herger	Northup	Waxman
Hill	Nussle	Weldon (FL)
Hilleary	Oberstar	Weldon (PA)
Hinchey	Obey	Weller
Hobson	Olver	Wexler
Hoekstra	Oxley	Weygand
Holden	Packard	White
Hooley	Pallone	Whitfield
Horn	Pappas	Wicker
Hostettler	Parker	Wise
Houghton	Pascarella	Wolf
Hoyer	Paul	Woolsey
Hulshof	Paxon	Young (AK)
Hutchinson	Pease	Young (FL)
Hyde	Peterson (MN)	
Inglis	Peterson (PA)	

NAYS—90

Abercrombie	Becerra	Berry
Baessler	Bentsen	Bilbray

Bishop	Hunter	Rothman
Brown (CA)	Jackson (IL)	Roybal-Allard
Brown (FL)	Jackson-Lee	Rush
Carson	(TX)	Salmon
Clay	Jefferson	Sanchez
Clayton	Johnson, E. B.	Sandlin
Clyburn	Kennedy (RI)	Scarborough
Coburn	Klecicka	Schaffer, Bob
Conyers	Lantos	Scott
Cummings	Lewis (GA)	Serrano
Davis (IL)	LoBlondo	Shadegg
Deal	Martinez	Sherman
Dellums	Matsui	Skeen
Doggett	McKinney	Skelton
Dooley	Meek	Snyder
Edwards	Millender-	Stark
Etheridge	McDonald	Stenholm
Evans	Miller (CA)	Stokes
Fattah	Mink	Strickland
Filner	Ortiz	Taylor (MS)
Ford	Owens	Thompson
Frost	Pastor	Torres
Green	Payne	Traficant
Gutierrez	Pelosi	Turner
Harman	Price (NC)	Velázquez
Hastings (FL)	Rangel	Waters
Hefner	Reyes	Watt (NC)
Hilliard	Rodriguez	Wynn
Hinojosa	Rohrabacher	

## NOT VOTING—18

Boucher	Foglietta	McDermott
Burton	Gonzalez	Norwood
Cubin	Johnson, Sam	Riley
Dingell	Klug	Roukema
Ewing	Largent	Schiff
Flake	McCrery	Yates

□ 0055

Messrs. WYNN, TORRES, ABERCROMBIE, LOBIONDO, SHADEGG, BOB SCHAFFER of Colorado, SCARBOROUGH, and SHERMAN changed their vote from "yeas" to "nays."

Mrs. MALONEY of New York, Mr. MOKLEY, and Mr. KENNEDY of Massachusetts changed their vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## THE JOURNAL

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, the pending business is the question de novo of the Speaker's approval of the Journal of the last day's proceedings.

The question is on the Speaker's approval of the Journal.

Pursuant to clause 1, rule I, the Journal stands approved.

## FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 1189. An act to increase the criminal penalties for assaulting or threatening Federal judges, their family members, and other public servants, and for other purposes.

S. 1228. An act to provide for a 10-year circulating commemorative coin program to

commemorate each of the 50 States, and for other purposes.

S. 1507. An act to amend the National Defense Authorization Act for Fiscal Year 1996 to make certain technical corrections.

## REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF S. 738, AMTRAK REFORM AND ACCOUNTABILITY ACT OF 1997

Mr. DIAZ-BALART (during consideration of H.R. 2920) from the Committee on Rules, submitted a privileged report (Rept. No. 105-400) on the resolution (H. Res. 319) providing for consideration of the bill (S. 738) to reform the statutes relating to Amtrak, to authorize appropriations for Amtrak, and for other purposes, which was referred to the House Calendar and ordered to be printed.

## PROVIDING FOR CONSIDERATION OF CERTAIN RESOLUTIONS IN PREPARATION FOR THE ADJOURNMENT OF THE FIRST SESSION SINE DIE.

Ms. PRYCE of Ohio. Mr. Speaker, by the direction of the Committee on Rules, I call up House Resolution 311 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

## H. RES. 311

*Resolved*, That upon the adoption of this resolution it shall be in order to consider in the House a joint resolution waiving certain enrollment requirements with respect to certain specified bills of the One Hundred Fifth Congress. The joint resolution shall be considered as read for amendment. The previous question shall be considered as ordered on the joint resolution to final passage without intervening motion except: (1) One hour of debate equally divided and controlled by the majority leader and the minority leader or their designees; and (2) one motion to commit.

SEC. 2. Upon the adoption of this resolution it shall be in order to consider in the House a joint resolution appointing the day for the convening of the second session of the One Hundred Fifth Congress. The joint resolution shall be considered as read for amendment. The previous question shall be considered as ordered on the joint resolution to final passage without intervening motion except: (1) One hour of debate equally divided and controlled by the majority leader and the minority leader or their designees; and (2) one motion to commit.

SEC. 3. The Speaker, the majority leader, and the minority leader may accept resignations and make appointments to commissions, boards, and committees following the adjournment of the first session sine die as authorized by law or by the House.

SEC. 4. A resolution providing that a committee of two Members of the House be appointed to wait upon the President of the United States and inform him that the House of Representatives has completed its business of the session and is ready to adjourn, unless the President has some other communication to make to them, is hereby adopted.

SEC. 5. A concurrent resolution providing that the two Houses of Congress assemble in

the Hall of the House of Representatives on Tuesday, January 27, 1998, at 9 p.m., for the purpose of receiving such communication as the President of the United States shall be pleased to make to them is hereby adopted.

SEC. 6. House Resolution 306 is laid on the table.

□ 0100

The SPEAKER pro tempore (Mr. PEASE). The gentlewoman from Ohio [Ms. PRYCE] is recognized for 1 hour.

Ms. PRYCE of Ohio. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to my friend, the gentlewoman from New York [Ms. SLAUGHTER], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, on Friday night, with little debate, the Committee on Rules reported House Resolution 311 by voice vote. This rule provides for the consideration and adoption of resolutions in preparation for the adjournment of the first session of the 105th Congress sine die. The rule includes a laundry list of items that the House must take care of in preparation for the end of the year, when it is time for us to leave Washington and go home to our families and constituents.

For example, the rule makes in order a joint resolution that would waive certain enrollment requirements with respect to specified bills, so that after legislation is passed, it can be sent to the President for his signature without delay.

Further, the rule provides for consideration of a joint resolution that specifies the day when the 105th Congress will reconvene for a second session. Each of these resolutions will be debatable for 1 hour, equally divided between the majority and minority leaders, and will be subject to a motion to commit.

Further, with the adoption of this rule, a resolution to provide for the appointment of two Members of the House to inform the President that the House is ready to adjourn, unless he has some other communication to make to the House, will be adopted. Other housekeeping items this rule provides for will allow the Speaker, majority leader, and minority leader to accept resignations and make appointments to commissions, boards, and committees following adjournment.

This rule also disposes of H. Res. 306, which the House has no need to consider.

Finally, this rule looks forward to the time when we will return to Congress next year, refreshed and renewed, ready to work, by setting the date for the President's State of the Union on Tuesday, January 27, 1998, at 9 p.m.

Mr. Speaker, as we plan for adjournment, it is worthwhile to reflect on the accomplishments of the first session of the 105th Congress. And we have a lot to be proud of. Perhaps most notably,

the 105th Congress passed legislation to provide tax relief for the first time in 16 years. Through your efforts, we have given 41 million children a tax credit, we have slashed the capital gains tax to promote economic growth, and we have reined in the death tax to provide relief to family-owned farms and businesses.

At the same time, we reached our goal of enacting a balanced budget that will eliminate the deficit by slowing the growth of government spending and creating a small, more effective Federal Government. Through that same legislation, we saved the Medicare program from bankruptcy, extending its life for at least 10 years, so that today's seniors and future generations will have the affordable, quality health care they so strongly deserve.

And that is not all. This House has passed legislation to move children from foster care to permanent homes. We passed legislation to give workers the flexibility of opting for time off rather than overtime pay, and we passed housing reforms to help low-income families.

In recent days, we have started down the path to overhauling our onerous tax system by passing legislation to reform and restructure the IRS. And the education reform measures we have adopted will give hope to children eager to learn and the promise of choice to parents who want the best for their kids.

Mr. Speaker, we have worked hard, and it shows. Now it is time to wrap up our work, go home to our families and constituents, and renew ourselves for the legislative challenges that lie ahead. Adoption of this rule will take us one step closer to the completion of a very productive first session, and I urge its swift adoption.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I appreciate that the two of us are about as popular as we can get this evening, holding this crowd. However, it is necessary for us to do this or the business of the Republic cannot go on; it is that important.

Mr. Speaker, for the most part, the rule provides for usual housekeeping duties that are required to bring a session of Congress to a close. I do not oppose those provisions, but I do believe that they should only be brought up at the appropriate time, when we have completed all of our vital pending business.

A major issue that needs to be addressed before we leave is campaign finance reform. The 1997 elections merely enforce the obvious problems with our campaign finance laws that we learned in the 1996 elections. The use of massive amounts of soft money on supposed "issue advertising," which was

intended and succeeded in affecting the outcome of individual races; the failure of disclosure rules to adequately inform the public, because of noncompliance and delayed compliance with the current rules; the continued laundering of money through supposed non-partisan, nonprofit interest groups must stop.

House Members on both sides of the aisle know it is necessary, because 187 Members of this Congress have taken the extraordinary step of signing Discharge Petition 3 to force a full discussion of a variety of proposals. The American public deserves better than our current out-of-control system, and we need to work on reform now. We all know the process will be difficult and contentious, but, nevertheless, reform is essential to ensure that citizens and not money decide who wins elections.

Finally, Mr. Speaker, I would like to comment on the last section of the rule, which lays on the table H.R. 306. H.R. 306, as we all remember, was the resolution that this House should have considered to expedite procedures at the end of the session. It was similar to the resolutions in previous Congresses.

Instead, this majority demonstrated its utter disregard for Members' basic right to assert their constitutional prerogatives as representatives elected by their constituents. For the first time in the 218-year history of the House of Representatives, we voted last Thursday to strip from Members the right to raise before the whole body questions of privilege affecting the rights of the House collectively, its safety, dignity, and integrity of its proceedings. And I am saddened that this dangerous precedent was set.

I would like to say that I think we also need to say before the close of this session of Congress that to drag on the question of the gentlewoman from California [Ms. SANCHEZ] in District 46 of California, to drag that on is the penultimate case of not being able to adjourn to go home, to leave unfinished business.

I regret with all my heart that we are at that state. And I hope when we come back next week we can remedy that problem.

Mr. Speaker, I yield as much time as he may consume to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, as everybody is as tired and interested in going home as I am, it bears repeating that, and I did not know that the gentlewoman from New York [Ms. SLAUGHTER] was going to mention the gentlewoman from California [Ms. SANCHEZ], but, as we leave, to repeat that this is the longest pending case in history under the Federal Contested Election Act, the longest in history.

Ms. SLAUGHTER. Mr. Speaker, I yield back the balance of my time.

Ms. PRYCE of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Let me remind my colleagues who are focused so loud on campaign finance reform that the House will have that debate when we return in the spring. Currently, there is no consensus on what campaign finance should look like, as was evidenced by hearings held in the Committee on House Oversight.

Our hope is that by March or April, the House will find some consensus on this issue so that meaningful campaign finance reform can be passed and signed into law. I want to remind my colleagues who are focusing on what we have not done of what we have accomplished in the first session. And once again I will remind them.

We have passed legislation to provide for tax relief for the first time in 16 years, a balanced budget that eliminates the deficit by 2002, adoption reforms for children in foster care, comp-time for America's workers, housing reform for low-income families, education reform for children eager to learn, and IRS reform for the taxpayers. I have to say very proudly that much of this has been accomplished in a bipartisan manner.

So, Mr. Speaker, we should be proud of these accomplishments and recognize that while we see a break in the action here soon, this resolution does not signify the end of the 105th. We will be back next year to add to our good works.

Further, Mr. Speaker, this resolution, in and of itself, should not be controversial. There were no objections heard in the Committee on Rules. So I urge my colleagues to support the rule.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SOLOMON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 257, nays 159, not voting 17, as follows:

[Roll No. 628]

YEAS—257

Aderholt	Blunt	Chenoweth
Allen	Boehert	Christensen
Archer	Boehner	Clement
Armey	Bonilla	Coble
Bachus	Bono	Coburn
Baker	Brady	Collins
Ballenger	Bryant	Combest
Barcla	Bunning	Cook
Barr	Burr	Cooksey
Barrett (NE)	Buyer	Cox
Barrett (WI)	Callahan	Cramer
Bartlett	Calvert	Crane
Bass	Camp	Crapo
Bateman	Campbell	Cunningham
Bereuter	Canady	Danner
Bilbray	Cannon	Davis (FL)
Billrakis	Castle	Davis (VA)
Blagojevich	Chabot	Deal
Bliley	Chambliss	Delahunt

DeLay	Johnson, Sam	Pomeroy
Dellums	Jones	Porter
Diaz-Balart	Kasich	Portman
Dickey	Kelly	Pryce (OH)
Dicks	Kennedy (MA)	Quinn
Dixon	Kennelly	Radanovich
Doolittle	Kildee	Ramstad
Dreier	Kim	Rangel
Duncan	King (NY)	Redmond
Dunn	Kingston	Regula
Ehlers	Knollenberg	Riggs
Ehrlich	Kolbe	Rogan
Emerson	LaHood	Rogers
English	Lantos	Rohrabacher
Ensign	Largent	Ros-Lehtinen
Everett	Latham	Royce
Ewing	LaTourette	Ryun
Fawell	Lazio	Sabo
Foley	Leach	Sanford
Forbes	Lewis (CA)	Sawyer
Fossella	Lewis (KY)	Saxton
Fowler	Linder	Schaefer, Dan
Fox	Lipinski	Schaffer, Bob
Frank (MA)	Livingston	Sensenbrenner
Franks (NJ)	LoBiondo	Sessions
Frelinghuysen	Lucas	Shadegg
Frost	Maloney (CT)	Shaw
Gallegly	Manzullo	Shimkus
Ganske	McCarthy (NY)	Shuster
Gekas	McCollum	Skeen
Gibbons	McDade	Smith (MI)
Gilchrest	McGovern	Smith (NJ)
Gillmor	McHugh	Smith (TX)
Gilman	McInnis	Smith, Adam
Goodlatte	McIntosh	Smith, Linda
Gordon	McIntyre	Snowbarger
Goss	McKeon	Solomon
Graham	McKinney	Souder
Granger	Metcalfe	Spence
Greenwood	Mica	Stabenow
Gutknecht	Miller (FL)	Stearns
Hall (OH)	Minge	Stokes
Hall (TX)	Moakley	Stump
Hansen	Moran (KS)	Sununu
Hastert	Morella	Talent
Hastings (WA)	Myrick	Tauzin
Hayworth	Nethercutt	Taylor (NC)
Hefley	Neumann	Thomas
Herger	Ney	Thornberry
Hill	Northup	Thune
Hilleary	Norwood	Tiahrt
Hobson	Nussle	Traficant
Hoekstra	Oxley	Upton
Horn	Packard	Walsh
Hostettler	Pappas	Watkins
Houghton	Parker	Watts (OK)
Hulshof	Pascarella	Weldon (FL)
Hunter	Pastor	Weldon (PA)
Hutchinson	Paul	Weller
Hyde	Paxon	White
Inglis	Pease	Whitfield
Istook	Pelosi	Wicker
Jackson (IL)	Peterson (PA)	Wolf
Jefferson	Petri	Wynn
Jenkins	Pickering	Young (AK)
John	Pitts	Young (FL)
Johnson (CT)	Pombo	

Lewis (GA)	Pallone	Slaughter
Lofgren	Payne	Snyder
Lowey	Peterson (MN)	Spratt
Luther	Pickett	Stark
Maloney (NY)	Poshard	Stenholm
Manton	Price (NC)	Strickland
Markey	Rahall	Stupak
Mascara	Reyes	Tanner
Matsui	Rivers	Tauscher
McCarthy (MO)	Rodriguez	Taylor (MS)
McHale	Roemer	Thompson
McNulty	Rothman	Thurman
Meehan	Roukema	Tierney
Meek	Roybal-Allard	Torres
Menendez	Rush	Towns
Millender	Salmon	Turner
McDonald	Sanchez	Velázquez
Miller (CA)	Sanders	Vento
Mink	Sandlin	Visclosky
Mollohan	Scarborough	Wamp
Moran (VA)	Schumer	Waters
Nadler	Scott	Watt (NC)
Neal	Serrano	Waxman
Oberstar	Shays	Wexler
Obey	Sherman	Weygand
Olver	Sisisky	Wise
Ortiz	Skaggs	Woolsey
Owens	Skelton	

NOT VOTING—17

Barton	Gonzalez	Murtha
Burton	Goodling	Riley
Cubin	Klug	Schiff
Dingell	Martinez	Smith (OR)
Flake	McCrery	Yates
Foglietta	McDermott	

□ 0143

So the resolution was agreed to.  
The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

H. Res. 306 was laid on the table.  
The SPEAKER. Pursuant to House Resolution 311, House Resolution 320 and House Concurrent Resolution 194 are adopted.

The text of House Resolution 320 is as follows:

H. RES. 320

*Resolved.* That a committee of two Members of the House be appointed to wait upon the President of the United States and inform him that the House of Representatives has completed its business of the session and is ready to adjourn, unless the President has some other communication to make to them.

The text of House Concurrent Resolution 194 is as follows:

H. CON. RES. 194

*Resolved by the House of Representatives (the Senate concurring).* That the two Houses of Congress assemble in the Hall of the House of Representatives on Tuesday, January 27, 1998, at 9 p.m. for the purpose of receiving such communication as the President of the United States shall be pleased to make to them.

LEGISLATIVE PROGRAM

(Mr. ARMEY asked and was given permission to address the House for 1 minute.)

Mr. ARMEY. Mr. Speaker, I take this time to speak out of order for the purposes of announcing the schedule and pending business before the House.

Mr. Speaker, I want to thank all the Members for their patience and good humor at this very, very late hour on Sunday and early hour on Monday.

Mr. Speaker, I do not believe we will have any more business before the

House this evening that will require a vote before the House. However, we have been working with the minority, and, I believe, and I am pleased to see the gentleman from Michigan [Mr. BONIOR], there for the purpose of concurrence on this, I believe that the minority agrees in some clearances for some unanimous consent requests that would still be taken tonight and for which we should not expect a vote.

We would conclude our legislative business for this week, but I should advise Members that we would resume legislative business at noon on Wednesday next, with no votes until after 5 o'clock on next Wednesday, with the expectation that we would conclude the legislative work for the year on that Wednesday evening and on Thursday.

In order to facilitate that work to be done on Wednesday and Thursday, we would, with the concurrence of the minority, be looking for unanimous consent to have a CR that would take us through Friday of next week, and then a unanimous consent to allow a rule that would give us same day authority under which we could consider any additional appropriations conference reports to come before us, the ISTEA legislation, the Amtrak legislation, and any suspensions that we might properly notice in agreement with the minority. That authority, incidentally, Mr. Speaker, would last through Friday.

Those particular unanimous consents will be asked, of course, upon the conclusion of this advisory commentary on the schedule.

Mr. BONIOR. Mr. Speaker, will the gentleman yield?

Mr. ARMEY. I yield to the gentleman from Michigan.

Mr. BONIOR. Mr. Speaker, I thank the gentleman for yielding.

I would ask the gentleman at this time if I heard correctly that the fast-track legislation has been put off indefinitely? Does the gentleman concur on that?

Mr. ARMEY. I am not sure I heard the word "definitely" or "indefinitely."

Mr. BONIOR. There was an "in" before the "D."

Mr. ARMEY. The fast-track legislation will not come up at this time. However, the gentleman may have noticed that we will be asking unanimous consent that that be included in that list of legislation that would be available for same-day authority on Wednesday night or Thursday.

Mr. BONIOR. So is the gentleman telling us this morning that he expects the fast-track legislation to come before us next Thursday or Friday?

Mr. ARMEY. I thank the gentleman. I guess I feel a little bit like Pip; I still have great expectations. They are shared at the White House. We are hopeful that might be worked out, but

NAYS—159

Abercrombie	Costello	Gutierrez
Ackerman	Coyne	Hamilton
Andrews	Cummings	Harman
Baesler	Davis (IL)	Hastings (FL)
Baldacci	DeFazio	Hefner
Becerra	DeGette	Hilliard
Bentsen	DeLauro	Hinchev
Berman	Deutsch	Hinojosa
Berry	Doggett	Holden
Bishop	Dooley	Hooley
Blumenauer	Doyle	Hoyer
Bonior	Edwards	Jackson-Lee
Borski	Engel	(TX)
Boswell	Eshoo	Johnson (WI)
Boucher	Etheridge	Johnson, E. B.
Boyd	Evans	Kanjorski
Brown (CA)	Farr	Kaptur
Brown (FL)	Fattah	Kennedy (RI)
Brown (OH)	Fazio	Killpatrick
Cardin	Filner	Kind (WI)
Carson	Ford	Kleczka
Clay	Furse	Klink
Clayton	Gejdenson	Kucinich
Clyburn	Gephardt	LaFalce
Condit	Goode	Lampson
Conyers	Green	Levin

I have no announcement or even, for that matter, prediction to make at this time. We just want to have that contingency available to us, should things develop favorable to that course of action.

If I could hold the gentleman's attention, I wonder if the gentleman can concur that we should expect no objections to the unanimous consent requests that I outlined?

Mr. BONIOR. That would be my recommendation on the two unanimous consents that the gentleman has propounded to the body this morning.

Mr. ARMEY. If that be the case, Mr. Speaker, I would like to propound some unanimous consents right now.

If I may, before I do so, for the benefit of my good friend, the gentleman from Pennsylvania [Mr. SHUSTER], who is very anxious about his own legislation and has worked very hard, and for so many Members who have unanimous consents, please understand that we are working with the minority. We may not be able to have officially cleared and prepared for the floor through the leadership of the minority and the majority your unanimous consent for today, but we are attentive to these matters, and we are hopeful to have those worked out for you before we conclude business next week. I do again appreciate everybody's patience.

**AUTHORIZING SPEAKER TO DESIGNATE TIME FOR RESUMPTION OF PROCEEDINGS ON REMAINING MOTIONS TO SUSPEND RULES CONSIDERED MONDAY, SEPTEMBER 29, 1997**

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that the Speaker be authorized to designate a time not later than the legislative day of November 14, 1997, for resumption of proceedings on the seven remaining motions to suspend the rules originally debated on September 29, 1997.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

**ADJOURNMENT TO WEDNESDAY, NOVEMBER 12, 1997**

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that when the House adjourns on the legislative day of today, it adjourn to meet at 12 noon on Wednesday, November 12, 1997.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

**DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT**

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that the business

in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

**WAIVING PRINTING ON PARCHMENT FOR REMAINING APPROPRIATION BILLS**

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that H.J. Res. 103, a joint resolution waiving the printing on parchment for the remaining appropriation bills when presented to the President, be discharged, considered, and passed.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The text of H.J. Res. 103 is as follows:

H.J. RES. 103

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of sections 106 and 107 of title 1, United States Code, are waived for the balance of the first session of the One Hundred Fifth Congress with respect to the printing (on parchment or otherwise) of the enrollment of any bill or joint resolution making general appropriations for the fiscal year ending on September 30, 1998, or continuing appropriations for the fiscal year ending on September 30, 1998. The enrollment of any such bill or joint resolution shall be in such form as the Committee on House Oversight of the House of Representatives certifies to be a true enrollment.*

The SPEAKER. Without objection, the joint resolution is considered and passed.

There was no objection.

A motion to reconsider was laid on the table.

**FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 1998**

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations be discharged from the further consideration of the joint resolution (H.J. Res. 105) making further continuing appropriations for the fiscal year 1998, and for other purposes, and that the House immediately consider and pass the joint resolution.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore [Mr. PEASE]. Is there objection to the request of the gentleman from Louisiana?

Mr. OBEY. Mr. Speaker, reserving the right to object, am I to understand that the continuing resolution which went into effect at midnight is now to be superseded by this continuing resolution, making the previous continuing resolution the shortest CR in the history of the United States Congress, and that under the resolution the gen-

tleman is offering, that the CR will run until next Friday?

Mr. LIVINGSTON. Mr. Speaker, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Louisiana.

Mr. LIVINGSTON. Mr. Speaker, to the best of my knowledge, the continuing resolution that was passed by us just a few hours ago has been in effect for approximately 2 hours, and, as such, will now be superseded by H.J. Res. 105 and will carry the activities of Government forward through the end of business until midnight this forthcoming Friday.

Mr. OBEY. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

The text of H.J. Res. 105 is as follows:

H.J. RES. 105

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That section 106(3) of Public Law 105-46 is further amended by striking "November 10, 1997" and inserting in lieu thereof "November 14, 1997", and each provision amended by sections 122 and 123 of such public law shall be applied as if "November 14, 1997" was substituted for "October 23, 1997".*

The SPEAKER pro tempore. Without objection, the joint resolution is considered and passed.

There was no objection.

A motion to reconsider was laid on the table.

**FEDERAL ADVISORY COMMITTEE ACT AMENDMENTS OF 1997**

Mr. HORN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2977) to amend the Federal Advisory Committee Act to clarify public disclosure requirements that are applicable to the National Academy of Sciences and the National Academy of Public Administration.

The Clerk read as follows:

H.R. 2977

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Federal Advisory Committee Act Amendments of 1997".

**SEC. 2. AMENDMENTS TO THE FEDERAL ADVISORY COMMITTEE ACT.**

(a) EXCLUSIONS FROM DEFINITION.—Section 3(2) of the Federal Advisory Committee Act (5 U.S.C. App) is amended in the matter following subparagraph (C), by striking "such term excludes" and all that follows through the period and inserting the following: "such term excludes (i) any committee that is composed wholly of full-time, or permanent part-time, officers or employees of the Federal Government, and (ii) any committee that is created by the National Academy of Sciences or the National Academy of Public Administration."

(b) REQUIREMENTS RELATING TO THE NATIONAL ACADEMY OF SCIENCES AND THE NATIONAL ACADEMY OF PUBLIC ADMINISTRATION.—Such act is further amended by redesignating section 15 as section 16 and inserting after section 14 the following new section:

“REQUIREMENTS RELATING TO THE NATIONAL ACADEMY OF SCIENCES AND THE NATIONAL ACADEMY OF PUBLIC ADMINISTRATION

“SEC. 15. (a) IN GENERAL.—An agency may not use any advice or recommendation provided by the National Academy of Sciences or National Academy of Public Administration that was developed by use of a committee created by that academy under an agreement with an agency, unless—

“(1) the committee was not subject to any actual management or control by an agency or an officer of the Federal Government;

“(2) in the case of a committee created after the date of the enactment of the Federal Advisory Committee Act Amendments of 1997, the membership of the committee was appointed in accordance with the requirements described in subsection (b)(1); and

“(3) in developing the advice or recommendation, the academy complied with—

“(A) subsection (b)(2) through (6), in the case of any advice or recommendation provided by the National Academy of Sciences; or

“(B) subsection (b)(2) and (5), in the case of any advice or recommendation provided by the National Academy of Public Administration.

“(b) REQUIREMENTS.—The requirements referred to in subsection (a) are as follows:

“(1) The Academy shall determine and provide public notice of the names and brief biographies of individuals that the Academy appoints or intends to appoint to serve on the committee. The Academy shall determine and provide a reasonable opportunity for the public to comment on such appointments before they are made or, if the Academy determines such prior comment is not practicable, in the period immediately following the appointments. The Academy shall make its best efforts to ensure that (A) no individual appointed to serve on the committee has a conflict of interest that is relevant to the functions to be performed, unless such conflict is promptly and publicly disclosed and the Academy determines that the conflict is unavoidable, (B) the committee membership is fairly balanced as determined by the Academy to be appropriate for the functions to be performed, and (C) the final report of the Academy will be the result of the Academy's independent judgment. The Academy shall require that individuals that the Academy appoints or intends to appoint to serve on the committee inform the Academy of the individual's conflicts of interest that are relevant to the functions to be performed.

“(2) The Academy shall determine and provide public notice of committee meetings that will be open to the public.

“(3) The Academy shall ensure that meetings of the committee to gather data from individuals who are not officials, agents, or employees of the Academy are open to the public, unless the Academy determines that a meeting would disclose matters described in section 552(b) of title 5, United States Code. The Academy shall make available to the public, at reasonable charge if appropriate, written materials presented to the committee by individuals who are not officials, agents, or employees of the Academy, unless the Academy determines that making

material available would disclose matters described in that section.

“(4) The Academy shall make available to the public as soon as practicable, at reasonable charge if appropriate, a brief summary of any committee meeting that is not a data gathering meeting, unless the Academy determines that the summary would disclose matters described in section 552(b) of title 5, United States Code. The summary shall identify the committee members present, the topics discussed, materials made available to the committee, and such other matters that the Academy determines should be included.

“(5) The Academy shall make available to the public its final report, at reasonable charge if appropriate, unless the Academy determines that the report would disclose matters described in section 552(b) of title 5, United States Code. If the Academy determines that the report would disclose matters described in that section, the Academy shall make public an abbreviated version of the report that does not disclose those matters.

“(6) After publication of the final report, the Academy shall make publicly available the names of the principal reviewers who reviewed the report in draft form and who are not officials, agents, or employees of the Academy.

“(c) REGULATIONS.—The Administrator of General Services may issue regulations implementing this section.”

(c) EFFECTIVE DATE AND APPLICATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), this section and the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) RETROACTIVE EFFECT.—Subsection (a) and the amendments made by subsection (a) shall be effective as of October 6, 1972, except that they shall not apply with respect to or otherwise affect any particular advice or recommendations that are subject to any judicial action filed before the date of the enactment of this Act.

#### SEC. 3. REPORT.

Not later than 1 year after the date of the enactment of this Act, the Administrator of General Services shall submit a report to the Congress on the implementation of and compliance with the amendments made by this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. HORN] and the gentleman from California [Mr. WAXMAN] each will control 20 minutes.

The Chair recognizes the gentleman from California [Mr. HORN].

Mr. HORN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we will use much less than the amount given to either of us. We know the House has been working hard and late, and we are going to keep our comments to just a very few minutes on either side.

Mr. Speaker, the Federal Advisory Committee Act was passed in 1972, as some of the senior Members will remember. For the last 25 years, the administration, Congress, and the various academies such as the National Academy of Sciences and the National Academy of Public Administration, have never questioned the applicability of this law. Recently, however, the United States Court of Appeals for the District of Columbia applied the law of the Federal Advisory Committee Act to the National Academy of Sciences.

Last week, the Supreme Court announced that it will not review the appeals court's decision. The proposal before the House has been cleared with both of the academies, the Office of Management and Budget, the minority and the majority, and the chairman of the House Committee on Science. This proposal would return the National Academy of Sciences to its previous status under law which this House had followed for a quarter century.

In addition, the legislation requires more openness when Federal agencies utilize the academies, similar to those of the National Academy of Sciences and the National Academy of Public Administration.

This increased openness that is now required with their consent is the following:

1. The names, biographies, and conflict of interest disclosures when committee members are nominated.

2. Most data gathering committee meetings will be open to the public unless the type of meeting is excepted under the Freedom of Information Act.

3. The names of reviewers of draft committee reports.

4. Summaries of any closed committee meetings.

The administration, the House and the Senate, both the majority and minority, all agree the academy should not be subject to the full process of the Federal Advisory Committee Act. The Senate is prepared to consider this legislation before the end of this session.

The gentleman from California, [Mr. WAXMAN], the gentleman from New York [Mrs. MALONEY], and the gentleman from Indiana [Mr. BURTON] are cosponsors of H.R. 2977. Last week, the Subcommittee on Government Management, which I chair, held a hearing on this matter. We heard most helpful testimony from both sides of the recent court case. The litigants that brought the court case agreed that the full brunt of the Federal Advisory Committee Act should not apply to the academies.

I strongly recommend favorable consideration of this bill to preserve the quality of the research provided to the Federal Government through the National Academy of Sciences and the National Academy of Public Administration.

Our respective staffs have done an excellent job in developing the legislation before us. The members of this team included: For the Republicans, Russell George, chief counsel and staff director of the Subcommittee on Government Management, Information and Technology; Robert Alloway, professional staff member; Mark Brasher, senior policy advisor.

For the Democrats, we are most appreciative of the work of Phil Barnett, chief counsel of the Committee on Government Reform and Oversight, who was joined by David McMillen, professional staff member, and Sheridan Pauker, research assistant.

We all greatly appreciate the find legal drafting and long hours put in by Harry A. Savage, assistant legislative counsel.

Mr. Speaker, I reserve the balance of my time.

Mr. Speaker, I ask consent that correspondence from Franklin D. Raines, Director, Office of Management and Budget, Executive Office of the President, dated October 28, 1997, and two letters from Dr. Bruce Alberts, president, National Academy of Sciences, dated November 9, 1997.

Also included is my full statement in lieu of a committee report.

EXECUTIVE OFFICE OF THE PRESIDENT,  
OFFICE OF MANAGEMENT  
AND BUDGET,

Washington, DC, October 28, 1997.

HON. STEPHEN HORN,  
Chairman, Subcommittee on Government Management, Information and Technology, Committee on Government Reform and Oversight, House of Representatives, Washington, DC.

DEAR CHAIRMAN HORN: This letter presents the views of the Administration on proposed legislation that would amend the Federal Advisory Committee Act, 5 U.S.C. App. 2, to clarify that the Act applies to committees that are subject to actual management and control by Federal officials.

The need for this legislation was created by the recent decision of the U.S. Court of Appeals for the District of Columbia Circuit in *Animal Legal Defense Fund, Inc. v. Shalala*, 114 F.3d 1209 (D.C. Cir. 1997), that FACA should apply to panels of the National Academy of Sciences. In so deciding, the court of appeals appears to have misinterpreted what Congress intended when it adopted FACA in 1972. The concept of extending FACA to privately managed and controlled organizations outside the Federal government such as the National Academy of Sciences was discussed and rejected when the FACA legislation was adopted by the House of Representatives. 118 Cong. Rec. 31.421 (1972). The Administration believes that Congress did not intend to apply FACA in this situation. The Executive Branch has consistently followed this interpretation of Congressional intent since 1973. The court decision is directly contrary to that longstanding interpretation.

Moreover, while the full impact of the court of appeal's decision remains to be clarified, implementing this decision may impose significant burdens on the Federal government. More than 450 NAS panels potentially could become subject to FACA. This is almost equal to the total number of discretionary committees (committees created under general agency authorization) that are now subject to FACA in all Federal agencies. Thus, implementation would almost double the number of discretionary committees subject to the FACA chartering requirements, almost double the number of discretionary committees that must be monitored by Federal officials, and significantly increase the administrative burdens on OMB and GSA in overseeing FACA committees. In addition, there is a risk that other entities outside the Federal government might subsequently be deemed "quasi-public" and thus subject to FACA.

As now written, FACA applies to advisory committees that are "established" or "utilized" by Federal agencies. 5 U.S.C. App. 2, section 3(2). Congress can remedy the problem created by the recent court decision by

clarifying that a "utilized" committee means one that is subject to actual management and control by a Federal agency. This interpretation is consistent with decisions handed down by appellate courts prior to the 1997 decision in *Animal Legal Defense Fund*, which have held that FACA applies only when committees are subject to actual management and control by agency officials. See *Washington Legal Found. v. U.S. Sentencing Comm'n.*, 17 F.3d 1446 (D.C. Cir. 1994); *Food Chemical News v. Young*, 900 F.2d 328 (D.C. Cir.), cert. denied, 498 U.S. 846 (1990). Adoption of this language would also be consistent with administrative policy that the Executive Branch has followed for the past 25 years.

Sincerely,

FRANKLIN D. RAINES,  
Director.

"Strike Section 3(2)(C) and all that follows in Section 3(2) and insert in lieu thereof:

"3(2)(C) established or utilized by one or more agencies, in the interest of obtaining advice or recommendations for the President or one or more agencies or officers of the Federal Government, except that such terms exclude:

(i) any committee created by an entity other than an agency or officer of the Federal Government and not subject to actual management and control by such agencies or officers, and

(ii) any committee composed wholly of full-time, or permanent part-time, employees of the Federal Government. The Administrator shall prescribe regulations for the purposes of this subsection."

NATIONAL ACADEMY OF SCIENCES,  
Washington, DC, November 9, 1997.

HON. STEPHEN HORN,  
Chairman, Subcommittee on Government Management, Information and Technology, Committee on Government Reform and Oversight, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I am writing on behalf of the National Academy of Sciences to explain how the Academy intends to apply the requirements of the Federal Advisory Committee Act of 1997 to Academy committees that are currently working on contracts or agreements with federal agencies.

Under the Act, the Academy is not required to apply the procedures of section 15 to committees that are currently underway. This makes sense, because the appointment provisions of section 15 could not be applied retroactively to committees whose members have already been appointed. There are, however, some provisions of section 15 that depending upon the stage of a committee's work could be reasonably applied to ongoing committees. For example, if a committee has not yet concluded its data gathering process, the requirement that data gathering meetings be open to the public could be followed by the committee.

On behalf of the Academy, you have my assurance that the Academy will apply the procedures set forth in section 15 to committees that are currently underway to the fullest extent that is reasonable and practicable.

Sincerely,

BRUCE ALBERTS,  
President,  
National Academy of Sciences.

NATIONAL ACADEMY OF SCIENCES,  
Washington, DC, November 9, 1997.

HON. STEPHEN HORN,  
House of Representatives,  
Washington, DC.

DEAR CONGRESSMAN HORN: I understand that some concerns have been raised concerning the use of the Section 552(b) exceptions as a basis for closing meetings provided in HR 2977.

I wish to assure you that we subscribe fully to the goal of providing as much openness as possible in our work. In particular, we have no intention of using Section 552(b)(5), which deals with interagency memoranda, as a basis for closing meetings of Academy committees. In fact, it is the Academy's standard practice not to treat the type of material covered by Section 552(b)(5) as confidential input to any Academy deliberative process. This procedure insures that, inasmuch as possible, all the information that a committee uses to reach its conclusion is in the public record.

Sincerely,

BRUCE ALBERTS,  
President.

STATEMENT OF REPRESENTATIVE HORN ON THE  
FEDERAL ADVISORY COMMITTEE ACT AMENDMENTS OF 1997

Mr. Speaker, I move to suspend the rules and pass the bill, H.R. 2977.

The Federal Advisory Committee Act was passed in 1972. It governs the activities of advisory committees created by the Government to obtain expert views and advice on complex issues confronting our Nation. The Act was designed to address two major concerns. First, at that time, advisory committees seemed to be disorganized, duplicative, and generally in need of oversight. Second, committee activities often took place without public participation, making it hard to know whether the committees were really acting in the public interest.

The Act required advisory committees to adhere to certain procedural rules. These rules included, among others: open meetings, involvement by Federal Government officials, and balanced membership. It also provided Office of Management and Budget oversight which was subsequently transferred to the General Services Administration.

Congress did not intend that this legislation would apply to the National Academy of Sciences. The National Academy of Sciences is an independent organization of scientists and academics that was chartered by Congress in 1863. It frequently sets up committees that provide independent advice to the Government: 90% of these reports are requested by government agencies and/or legislative committees of Congress.

The only other group affected by this bill is the National Academy of Public Administration. It is also an independent organization, founded in 1967 and chartered by Congress in 1984 to assist Federal, State, and local governments on matters of efficiency and accountability.

Congress did not intend for the Act to apply to either of these Academies. This intent in relation to the Academy of Sciences was expressly noted during the deliberations on the legislation in the House of Representatives.

[Quote from CONGRESSIONAL RECORD of September 20, 1972, H3142, follows:]

Mr. HORTON. Am I correct in the understanding that this bill does not apply to such organizations as the National Academy of Sciences and its various committees which

make studies and submit reports to the Federal agencies on request?

Mr. HOLIFIELD. The gentleman is quite correct. If he will refer to the joint explanatory statement of the committee of conference at page 10, the first full paragraph, it states as follows: "The Act does not apply to persons or organizations which have contractual relationships with Federal agencies nor to advisory committees not directly established by or for such agencies." As the gentleman knows, the National Academy of Sciences was founded by Congress and, therefore, it comes under that category.

Mr. HORTON. So it would be excluded?

Mr. HOLIFIELD. That is correct.

For the last twenty-five years the Administration, Congress, and the Academies have never questioned the applicability of this law.

Recently, the United States Court of Appeals for the District of Columbia decision applied the law to the National Academy of Sciences. That case is the: *Animal Legal Defense Fund, Inc., et al. v. Donna E. Shalala, et al.*, 104 F.3d 424 (D.C. Circuit 1997). Last week the Supreme Court announced it will not review the appeal court's decision.

The proposal before the house would return the National Academy of Sciences to the status under the law that it held before the recent court rulings. In addition, the legislation requires more openness when Federal agencies utilize the Academies.

These increased openness requirements are:

1. Post for public comment the names, biographies, and conflict of interest disclosures when committee members are nominated.

2. Invite public attendance at all data gathering committee meetings. (Of course, the exemptions established by the Freedom of Information Act would still apply for items such as privacy and national security issues.)

3. Post for the public record the names of reviewers of draft committee reports. And,

4. Make summaries available to the public of any committee meetings which are closed.

These changes will benefit the public and Federal agencies and will also contribute to the quality and credibility of Academy reports.

Furthermore, the proposal requires a General Services Administration [GSA] study within one year to assess the implementation of this legislation.

There seems to be broad agreement on this bill. The Administration, the House, and the Senate—both the Majority and the Minority—all agree that the Academies should not be subject to the full process of the Federal Advisory Committee Act.

The Academies are valuable to America precisely because they are independent of agency influence; because they bring together the best professionals and experts with impressive backgrounds and because they derive their recommendations from multiple perspectives. They are asked to study and issue *only* when it is important, complex, and controversial. This bill will help preserve their high quality, objective, independent studies while also adding more openness.

The Senate is prepared to quickly consider this legislation before the end of this session. The Senate is awaiting House action.

The subcommittee on Government Management, Information and Technology, which I chair, held a hearing on this matter last week. GSA, GAO, and OMB have expressed support for this effort. This legisla-

tive is fully supported by Mr. Burton, chairman of the full committee. Mr. Waxman, the Ranking Democratic Member on the full Committee on Government Reform and Oversight is also a co-sponsor of this bill, so is Ms. Maloney, the Ranking Democratic Member on the Subcommittee. The litigants that brought the successful court case also testified before our subcommittee and they too agree that the full brunt of the Federal Advisory Committee Act should not apply to the Academies.

I strongly recommend favorable consideration of this bill to preserve the quality of the research provided to the Federal Government by the National Academy of Sciences and the National Academy of Public Administration.

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 2977, the Federal Advisory Committee Act Amendments of 1997. I ask unanimous consent to revise and extend my remarks and to insert extraneous material into the RECORD.

Recent federal court decisions have held that the National Academy of Sciences committees convened by federal agencies or Congress are subject to the Federal Advisory Committee Act.

The Federal Advisory Committee Act includes important measures that provide for public scrutiny of taxpayer-funded advisory committees. This Act, however, also imposes some procedures which may affect the independence of the National Academy of Sciences and the National Academy of Public Administration, an advisory body with a similar congressional charter to the National Academy of Sciences.

The Federal Advisory Committee Act Amendments of 1997 strike a balance between the Academies' need for independence and the public's right to know about the advisors and procedures used to produce technical or policy advice for the government.

These amendments require that the National Academy of Sciences appoint members without conflicts of interest—or else promptly disclose any unavoidable conflicts of interest to the public. The bill requires the Academy to make public the names and backgrounds of appointed committee members and creates a public comment period on these members. This public comment period must occur before committee members are finally appointed unless this is not practicable due to unusual time constraints.

More meetings of the National Academy of Sciences will be made open to the public. If meetings are closed, the Academy must provide summaries of closed meetings to the public. The purpose of this provision is to provide a summary of the committee's deliberations, as well as a list of the committee members present and other matters determined by the Academy.

The burden of insuring compliance with this legislation falls on the agencies. Agencies may not use the advice or recommendations provided by the Academy unless the procedural requirements set forth in the legislation have been followed by the Academy.

A letter from the National Academy of Sciences clarifies an important technical issue relating to the use of the section 552(b) exceptions. Pursuant to my earlier unanimous

consent request, I am inserting this letter in the record for publication.

I urge my colleagues to adopt these amendments.

NATIONAL ACADEMY OF SCIENCES,

Washington, DC, November 9, 1997.

Hon. HENRY WAXMAN,

U.S. House of Representatives, Washington, DC.

DEAR CONGRESSMAN WAXMAN: I understand that some concerns have been raised concerning the use of the Section 552(b) exceptions as a basis for closing meetings provided in H.R. 2977.

I wish to assure you that we subscribe fully to the goal of providing as much openness as possible in our work. In particular, we have no intention of using Section 552(b)(5), which deals with interagency memoranda, as a basis for closing meetings of Academy committees. In fact, it is the Academy's standard practice not to treat the type of material covered by Section 552(b)(5) as confidential input to any Academy deliberative process. This procedure insures that, in as much as possible, all the information that a committee uses to reach its conclusions is in the public records.

Sincerely,

BRUCE ALBERTS,

President.

Mr. WAXMAN. Mr. Speaker, I yield back the balance of my time.

Mr. HORN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. HORN] that the House suspend the rules and pass the bill, H.R. 2977.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

#### CONSIDERING AMENDMENT TO H. RES. 314 AS ADOPTED WHEN CONSIDERED

Mr. SOLOMON. Mr. Speaker, I ask unanimous consent that when the House considers House Resolution 314, the amendment that I have placed at the desk be considered as adopted.

□ 0200

The Clerk read as follows:

Page 1, line 5, strike "November 11" and insert in lieu thereof "November 15".

Page 2, after line 13, insert the following:

(4) The bill (S. 1454) to provide a 6-month extension of highway, highway safety and transit programs pending enactment of a law reauthorizing the Intermodal Surface Transportation Efficiency Act of 1991.

Page 2, line 14, strike "November 11" and insert in lieu thereof "November 15".

The SPEAKER pro tempore (Mr. PEASE). Is there objection to the request of the gentleman from New York?

There was no objection.

#### PERSONAL EXPLANATION

Mrs. CLAYTON. Mr. Speaker, I was unavoidably delayed because of the

death of a staff member when the House voted on H.R. 2013. Had I been present, I would have voted "aye."

**CONFERENCE REPORT ON S. 830, FOOD AND DRUG ADMINISTRATION MODERNIZATION ACT OF 1997**

Mr. BILEY submitted the following conference report and statement on the Senate bill (S. 830) to amend the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act to improve the regulation of food, drugs, devices, and biological products, and for other purposes:

**CONFERENCE REPORT (H. REPT. 105-399)**

The Committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 830) to amend the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act to improve the regulation of food, drugs, devices, and biological products, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

**SECTION 1. SHORT TITLE; REFERENCES; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the "Food and Drug Administration Modernization Act of 1997".

(b) **REFERENCES.**—Except as otherwise specified, whenever in this Act an amendment or repeal is expressed in terms of an amendment to or a repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

(c) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

- Sec. 1. Short title; references; table of contents.
- Sec. 2. Definitions.

**TITLE I—IMPROVING REGULATION OF DRUGS**

**Subtitle A—Fees Relating to Drugs**

- Sec. 101. Findings.
- Sec. 102. Definitions.
- Sec. 103. Authority to assess and use drug fees.
- Sec. 104. Annual reports.
- Sec. 105. Savings.
- Sec. 106. Effective date.
- Sec. 107. Termination of effectiveness.

**Subtitle B—Other Improvements**

- Sec. 111. Pediatric studies of drugs.
- Sec. 112. Expediting study and approval of fast track drugs.
- Sec. 113. Information program on clinical trials for serious or life-threatening diseases.
- Sec. 114. Health care economic information.
- Sec. 115. Clinical investigations.
- Sec. 116. Manufacturing changes for drugs.
- Sec. 117. Streamlining clinical research on drugs.
- Sec. 118. Data requirements for drugs and biologics.
- Sec. 119. Content and review of applications.
- Sec. 120. Scientific advisory panels.
- Sec. 121. Positron emission tomography.
- Sec. 122. Requirements for radiopharmaceuticals.

- Sec. 123. Modernization of regulation.
- Sec. 124. Pilot and small scale manufacture.
- Sec. 125. Insulin and antibiotics.
- Sec. 126. Elimination of certain labeling requirements.
- Sec. 127. Application of Federal law to practice of pharmacy compounding.
- Sec. 128. Reauthorization of clinical pharmacology program.
- Sec. 129. Regulations for sunscreen products.
- Sec. 130. Reports of postmarketing approval studies.
- Sec. 131. Notification of discontinuance of a life saving product.

**TITLE II—IMPROVING REGULATION OF DEVICES**

- Sec. 201. Investigational device exemptions.
- Sec. 202. Special review for certain devices.
- Sec. 203. Expanding humanitarian use of devices.
- Sec. 204. Device standards.
- Sec. 205. Scope of review; collaborative determinations of device data requirements.
- Sec. 206. Premarket notification.
- Sec. 207. Evaluation of automatic class III designation.
- Sec. 208. Classification panels.
- Sec. 209. Certainty of review timeframes; collaborative review process.
- Sec. 210. Accreditation of persons for review of premarket notification reports.
- Sec. 211. Device tracking.
- Sec. 212. Postmarket surveillance.
- Sec. 213. Reports.
- Sec. 214. Practice of medicine.
- Sec. 215. Noninvasive blood glucose meter.
- Sec. 216. Use of data relating to premarket approval; product development protocol.
- Sec. 217. Clarification of the number of required clinical investigations for approval.

**TITLE III—IMPROVING REGULATION OF FOOD**

- Sec. 301. Flexibility for regulations regarding claims.
- Sec. 302. Petitions for claims.
- Sec. 303. Health claims for food products.
- Sec. 304. Nutrient content claims.
- Sec. 305. Referral statements.
- Sec. 306. Disclosure of irradiation.
- Sec. 307. Irradiation petition.
- Sec. 308. Glass and ceramic ware.
- Sec. 309. Food contact substances.

**TITLE IV—GENERAL PROVISIONS**

- Sec. 401. Dissemination of information on new uses.
- Sec. 402. Expanded access to investigational therapies and diagnostics.
- Sec. 403. Approval of supplemental applications for approved products.
- Sec. 404. Dispute resolution.
- Sec. 405. Informal agency statements.
- Sec. 406. Food and Drug Administration mission and annual report.
- Sec. 407. Information system.
- Sec. 408. Education and training.
- Sec. 409. Centers for education and research on therapeutics.
- Sec. 410. Mutual recognition agreements and global harmonization.
- Sec. 411. Environmental impact review.
- Sec. 412. National uniformity for nonprescription drugs and cosmetics.
- Sec. 413. Food and Drug Administration study of mercury compounds in drugs and food.
- Sec. 414. Interagency collaboration.
- Sec. 415. Contracts for expert review.
- Sec. 416. Product classification.
- Sec. 417. Registration of foreign establishments.
- Sec. 418. Clarification of seizure authority.

- Sec. 419. Interstate commerce.
- Sec. 420. Safety report disclaimers.
- Sec. 421. Labeling and advertising regarding compliance with statutory requirements.
- Sec. 422. Rule of construction.

**TITLE V—EFFECTIVE DATE**

- Sec. 501. Effective date.

**SEC. 2. DEFINITIONS.**

In this Act, the terms "drug", "device", "food", and "dietary supplement" have the meaning given such terms in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321).

**TITLE I—IMPROVING REGULATION OF DRUGS**

**Subtitle A—Fees Relating to Drugs**

**SEC. 101. FINDINGS.**

Congress finds that—

(1) prompt approval of safe and effective new drugs and other therapies is critical to the improvement of the public health so that patients may enjoy the benefits provided by these therapies to treat and prevent illness and disease;

(2) the public health will be served by making additional funds available for the purpose of augmenting the resources of the Food and Drug Administration that are devoted to the process for review of human drug applications;

(3) the provisions added by the Prescription Drug User Fee Act of 1992 have been successful in substantially reducing review times for human drug applications and should be—

(A) reauthorized for an additional 5 years, with certain technical improvements; and

(B) carried out by the Food and Drug Administration with new commitments to implement more ambitious and comprehensive improvements in regulatory processes of the Food and Drug Administration; and

(4) the fees authorized by amendments made in this subtitle will be dedicated toward expediting the drug development process and the review of human drug applications as set forth in the goals identified, for purposes of part 2 of subchapter C of chapter VII of the Federal Food, Drug, and Cosmetic Act, in the letters from the Secretary of Health and Human Services to the chairman of the Committee on Commerce of the House of Representatives and the chairman of the Committee on Labor and Human Resources of the Senate, as set forth in the Congressional Record.

**SEC. 102. DEFINITIONS.**

Section 735 (21 U.S.C. 379g) is amended—

(1) in the second sentence of paragraph (1)—

(A) by striking "Service Act, and" and inserting "Service Act."; and

(B) by striking "September 1, 1992." and inserting the following: "September 1, 1992, does not include an application for a licensure of a biological product for further manufacturing use only, and does not include an application or supplement submitted by a State or Federal Government entity for a drug that is not distributed commercially. Such term does include an application for licensure, as described in subparagraph (D), of a large volume biological product intended for single dose injection for intravenous use or infusion.";

(2) in the second sentence of paragraph (3)—

(A) by striking "Service Act, and" and inserting "Service Act."; and

(B) by striking "September 1, 1992." and inserting the following: "September 1, 1992, does not include a biological product that is licensed for further manufacturing use only, and does not include a drug that is not distributed commercially and is the subject of an application or supplement submitted by a State or Federal Government entity. Such term does include a large volume biological product intended for single dose injection for intravenous use or infusion.";

(3) in paragraph (4), by striking "without" and inserting "without substantial";

(4) by amending the first sentence of paragraph (5) to read as follows:

"(5) The term 'prescription drug establishment' means a foreign or domestic place of business which is at one general physical location consisting of one or more buildings all of which are within five miles of each other and at which one or more prescription drug products are manufactured in final dosage form.";

(5) in paragraph (7)(A)—

(A) by striking "employees under contract" and all that follows through "Administration," the second time it occurs and inserting "contractors of the Food and Drug Administration," and

(B) by striking "and committees," and inserting "and committees and to contracts with such contractors,";

(6) in paragraph (8)—

(A) in subparagraph (A)—

(i) by striking "August of" and inserting "April of"; and

(ii) by striking "August 1992" and inserting "April 1997"; and

(B) in subparagraph (B)—

(i) by striking "section 254(d)" and inserting "section 254(c)";

(ii) by striking "1992" and inserting "1997"; and

(iii) by striking "102d Congress, 2d Session" and inserting "105th Congress, 1st Session"; and

(7) by adding at the end the following:

"(9) The term 'affiliate' means a business entity that has a relationship with a second business entity if, directly or indirectly—

"(A) one business entity controls, or has the power to control, the other business entity; or

"(B) a third party controls, or has power to control, both of the business entities."

#### SEC. 103. AUTHORITY TO ASSESS AND USE DRUG FEES.

(a) TYPES OF FEES.—Section 736(a) (21 U.S.C. 379h(a)) is amended—

(1) by striking "Beginning in fiscal year 1993" and inserting "Beginning in fiscal year 1998";

(2) in paragraph (1)—

(A) by striking subparagraph (B) and inserting the following:

"(B) PAYMENT.—The fee required by subparagraph (A) shall be due upon submission of the application or supplement.";

(B) in subparagraph (D)—

(i) in the subparagraph heading, by striking "NOT ACCEPTED" and inserting "REFUSED";

(ii) by striking "50 percent" and inserting "75 percent";

(iii) by striking "subparagraph (B)(i)" and inserting "subparagraph (B)"; and

(iv) by striking "not accepted" and inserting "refused"; and

(C) by adding at the end the following:

"(E) EXCEPTION FOR DESIGNATED ORPHAN DRUG OR INDICATION.—A human drug application for a prescription drug product that has been designated as a drug for a rare disease or condition pursuant to section 526 shall not be subject to a fee under subparagraph (A), unless the human drug application includes an indication for other than a rare disease or condition. A supplement proposing to include a new indication for a rare disease or condition in a human drug application shall not be subject to a fee under subparagraph (A), if the drug has been designated pursuant to section 526 as a drug for a rare disease or condition with regard to the indication proposed in such supplement.

"(F) EXCEPTION FOR SUPPLEMENTS FOR PEDIATRIC INDICATIONS.—A supplement to a human drug application proposing to include a new indication for use in pediatric populations shall not be assessed a fee under subparagraph (A).

"(G) REFUND OF FEE IF APPLICATION WITHDRAWN.—If an application or supplement is

withdrawn after the application or supplement was filed, the Secretary may refund the fee or a portion of the fee if no substantial work was performed on the application or supplement after the application or supplement was filed. The Secretary shall have the sole discretion to refund a fee or a portion of the fee under this subparagraph. A determination by the Secretary concerning a refund under this paragraph shall not be reviewable.";

(3) by striking paragraph (2) and inserting the following:

"(2) PRESCRIPTION DRUG ESTABLISHMENT FEE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), each person that—

"(i) is named as the applicant in a human drug application; and

"(ii) after September 1, 1992, had pending before the Secretary a human drug application or supplement, shall be assessed an annual fee established in subsection (b) for each prescription drug establishment listed in its approved human drug application as an establishment that manufactures the prescription drug product named in the application. The annual establishment fee shall be assessed in each fiscal year in which the prescription drug product named in the application is assessed a fee under paragraph (3) unless the prescription drug establishment listed in the application does not engage in the manufacture of the prescription drug product during the fiscal year. The establishment fee shall be payable on or before January 31 of each year. Each such establishment shall be assessed only one fee per establishment, notwithstanding the number of prescription drug products manufactured at the establishment. In the event an establishment is listed in a human drug application by more than one applicant, the establishment fee for the fiscal year shall be divided equally and assessed among the applicants whose prescription drug products are manufactured by the establishment during the fiscal year and assessed product fees under paragraph (3).

"(B) EXCEPTION.—If, during the fiscal year, an applicant initiates or causes to be initiated the manufacture of a prescription drug product at an establishment listed in its human drug application—

"(i) that did not manufacture the product in the previous fiscal year; and

"(ii) for which the full establishment fee has been assessed in the fiscal year at a time before manufacture of the prescription drug product was begun;

the applicant will not be assessed a share of the establishment fee for the fiscal year in which the manufacture of the product began.";

(4) in paragraph (3)—

(A) in subparagraph (A)—

(i) in clause (i), by striking "is listed" and inserting "has been submitted for listing"; and

(ii) by striking "Such fee shall be payable" and all that follows through "section 510," and inserting the following: "Such fee shall be payable for the fiscal year in which the product is first submitted for listing under section 510, or is submitted for relisting under section 510 if the product has been withdrawn from listing and relisted. After such fee is paid for that fiscal year, such fee shall be payable on or before January 31 of each year. Such fee shall be paid only once for each product for a fiscal year in which the fee is payable.";

(B) in subparagraph (B), by striking "505(j)" and inserting the following: "505(j), under an abbreviated application filed under section 507 (as in effect on the day before the date of enactment of the Food and Drug Administration Modernization Act of 1997), or under an abbreviated new drug application pursuant to regulations in effect prior to the implementation of the

Drug Price Competition and Patent Term Restoration Act of 1984.";

(b) FEE AMOUNTS.—Section 736(b) (21 U.S.C. 379h(b)) is amended to read as follows:

"(b) FEE AMOUNTS.—Except as provided in subsections (c), (d), (f), and (g), the fees required under subsection (a) shall be determined and assessed as follows:

"(1) APPLICATION AND SUPPLEMENT FEES.—

"(A) FULL FEES.—The application fee under subsection (a)(1)(A)(i) shall be \$250,704 in fiscal year 1998, \$256,338 in each of fiscal years 1999 and 2000, \$267,606 in fiscal year 2001, and \$258,451 in fiscal year 2002.

"(B) OTHER FEES.—The fee under subsection (a)(1)(A)(ii) shall be \$125,352 in fiscal year 1998, \$128,169 in each of fiscal years 1999 and 2000, \$133,803 in fiscal year 2001, and \$129,226 in fiscal year 2002.

"(2) TOTAL FEE REVENUES FOR ESTABLISHMENT FEES.—The total fee revenues to be collected in establishment fees under subsection (a)(2) shall be \$35,600,000 in fiscal year 1998, \$36,400,000 in each of fiscal years 1999 and 2000, \$38,000,000 in fiscal year 2001, and \$36,700,000 in fiscal year 2002.

"(3) TOTAL FEE REVENUES FOR PRODUCT FEES.—The total fee revenues to be collected in product fees under subsection (a)(3) in a fiscal year shall be equal to the total fee revenues collected in establishment fees under subsection (a)(2) in that fiscal year."

(c) INCREASES AND ADJUSTMENTS.—Section 736(c) (21 U.S.C. 379h(c)) is amended—

(1) in the subsection heading, by striking "INCREASES AND";

(2) in paragraph (1)—

(A) by striking "(1) REVENUE" and all that follows through "increased by the Secretary" and inserting the following: "(1) INFLATION ADJUSTMENT.—The fees and total fee revenues established in subsection (b) shall be adjusted by the Secretary";

(B) in subparagraph (A), by striking "increase" and inserting "change";

(C) in subparagraph (B), by striking "increase" and inserting "change"; and

(D) by adding at the end the following flush sentence:

"The adjustment made each fiscal year by this subsection will be added on a compounded basis to the sum of all adjustments made each fiscal year after fiscal year 1997 under this subsection.";

(3) in paragraph (2), by striking "October 1, 1992," and all that follows through "such schedule," and inserting the following: "September 30, 1997, adjust the establishment and product fees described in subsection (b) for the fiscal year in which the adjustment occurs so that the revenues collected from each of the categories of fees described in paragraphs (2) and (3) of subsection (b) shall be set to be equal to the revenues collected from the category of application and supplement fees described in paragraph (1) of subsection (b)."; and

(4) in paragraph (3), by striking "paragraph (2)" and inserting "this subsection".

(d) FEE WAIVER OR REDUCTION.—Section 736(d) (21 U.S.C. 379h(d)) is amended—

(1) by redesignating paragraphs (1), (2), (3), and (4) as subparagraphs (A), (B), (C), and (D), respectively and indenting appropriately;

(2) by striking "The Secretary shall grant a" and all that follows through "finds that—" and inserting the following:

"(1) IN GENERAL.—The Secretary shall grant a waiver from or a reduction of one or more fees assessed under subsection (a) where the Secretary finds that—";

(3) in subparagraph (C) (as so redesignated in paragraph (1)), by striking ", or" and inserting a comma;

(4) in subparagraph (D) (as so redesignated in paragraph (1)), by striking the period and inserting ", or";

(5) by inserting after subparagraph (D) (as so redesignated in paragraph (1)) the following:

"(E) the applicant involved is a small business submitting its first human drug application to the Secretary for review."; and

(6) by striking "In making the finding in paragraph (3)," and all that follows through "standard costs," and inserting the following:

"(2) USE OF STANDARD COSTS.—In making the finding in paragraph (1)(C), the Secretary may use standard costs.

"(3) RULES RELATING TO SMALL BUSINESSES.—

"(A) DEFINITION.—In paragraph (1)(E), the term 'small business' means an entity that has fewer than 500 employees, including employees of affiliates.

"(B) WAIVER OF APPLICATION FEE.—The Secretary shall waive under paragraph (1)(E) the application fee for the first human drug application that a small business or its affiliate submits to the Secretary for review. After a small business or its affiliate is granted such a waiver, the small business or its affiliate shall pay—

"(i) application fees for all subsequent human drug applications submitted to the Secretary for review in the same manner as an entity that does not qualify as a small business; and

"(ii) all supplement fees for all supplements to human drug applications submitted to the Secretary for review in the same manner as an entity that does not qualify as a small business."

(e) ASSESSMENT OF FEES.—Section 736(f)(1) (21 U.S.C. 379h(f)(1)) is amended—

(1) by striking "fiscal year 1993" and inserting "fiscal year 1997"; and

(2) by striking "fiscal year 1992" and inserting "fiscal year 1997 (excluding the amount of fees appropriated for such fiscal year)".

(f) CREDITING AND AVAILABILITY OF FEES.—Section 736(g) (21 U.S.C. 379h(g)) is amended—

(1) in paragraph (1), by adding at the end the following: "Such sums as may be necessary may be transferred from the Food and Drug Administration salaries and expenses appropriation account without fiscal year limitation to such appropriation account for salaries and expenses with such fiscal year limitation. The sums transferred shall be available solely for the process for the review of human drug applications.";

(2) in paragraph (2)—

(A) in subparagraph (A), by striking "Acts" and inserting "Acts, or otherwise made available for obligation,"; and

(B) in subparagraph (B), by striking "over such costs for fiscal year 1992" and inserting "over such costs, excluding costs paid from fees collected under this section, for fiscal year 1997"; and

(3) by striking paragraph (3) and inserting the following:

"(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fees under this section—

"(A) \$106,800,000 for fiscal year 1998;

"(B) \$109,200,000 for fiscal year 1999;

"(C) \$109,200,000 for fiscal year 2000;

"(D) \$114,000,000 for fiscal year 2001; and

"(E) \$110,100,000 for fiscal year 2002,

as adjusted to reflect adjustments in the total fee revenues made under this section and changes in the total amounts collected by application, supplement, establishment, and product fees.

"(4) OFFSET.—Any amount of fees collected for a fiscal year under this section that exceeds the amount of fees specified in appropriation Acts for such fiscal year shall be credited to the appropriation account of the Food and Drug Administration as provided in paragraph (1), and shall be subtracted from the amount of fees that would otherwise be authorized to be collected under this section pursuant to appropriation Acts for a subsequent fiscal year."

(g) REQUIREMENT FOR WRITTEN REQUESTS FOR WAIVERS, REDUCTIONS, AND REFUNDS.—Section 736 (21 U.S.C. 379h) is amended—

(1) by redesignating subsection (i) as subsection (j); and

(2) by inserting after subsection (h) the following:

"(i) WRITTEN REQUESTS FOR WAIVERS, REDUCTIONS, AND REFUNDS.—To qualify for consideration for a waiver or reduction under subsection (d), or for a refund of any fee collected in accordance with subsection (a), a person shall submit to the Secretary a written request for such waiver, reduction, or refund not later than 180 days after such fee is due."

(h) SPECIAL RULE FOR WAIVERS AND REFUNDS.—Any requests for waivers or refunds for fees assessed under section 736 of the Federal Food, Drug, and Cosmetic Act (42 U.S.C. 379h) prior to the date of enactment of this Act shall be submitted in writing to the Secretary of Health and Human Services within 1 year after the date of enactment of this Act. Any requests for waivers or refunds pertaining to a fee for a human drug application or supplement accepted for filing prior to October 1, 1997 or to a product or establishment fee required by such Act for a fiscal year prior to fiscal year 1998, shall be evaluated according to the terms of the Prescription Drug User Fee Act of 1992 (as in effect on September 30, 1997) and part 2 of subchapter C of chapter VII of the Federal Food, Drug, and Cosmetic Act (as in effect on September 30, 1997). The term "person" in such Acts shall continue to include an affiliate thereof.

#### SEC. 104. ANNUAL REPORTS.

(a) PERFORMANCE REPORT.—Beginning with fiscal year 1998, not later than 60 days after the end of each fiscal year during which fees are collected under part 2 of subchapter C of chapter VII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379g et seq.), the Secretary of Health and Human Services shall prepare and submit to the Committee on Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report concerning the progress of the Food and Drug Administration in achieving the goals identified in the letters described in section 101(4) during such fiscal year and the future plans of the Food and Drug Administration for meeting the goals.

(b) FISCAL REPORT.—Beginning with fiscal year 1998, not later than 120 days after the end of each fiscal year during which fees are collected under the part described in subsection (a), the Secretary of Health and Human Services shall prepare and submit to the Committee on Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report on the implementation of the authority for such fees during such fiscal year and the use, by the Food and Drug Administration, of the fees collected during such fiscal year for which the report is made.

#### SEC. 105. SAVINGS.

Notwithstanding section 105 of the Prescription Drug User Fee Act of 1992, the Secretary shall retain the authority to assess and collect any fee required by part 2 of subchapter C of chapter VII of the Federal Food, Drug, and Cosmetic Act for a human drug application or supplement accepted for filing prior to October 1, 1997, and to assess and collect any product or establishment fee required by such Act for a fiscal year prior to fiscal year 1998.

#### SEC. 106. EFFECTIVE DATE.

The amendments made by this subtitle shall take effect October 1, 1997.

#### SEC. 107. TERMINATION OF EFFECTIVENESS.

The amendments made by sections 102 and 103 cease to be effective October 1, 2002, and section 104 ceases to be effective 120 days after such date.

#### Subtitle B—Other Improvements

#### SEC. 111. PEDIATRIC STUDIES OF DRUGS.

Chapter V (21 U.S.C. 351 et seq.) is amended by inserting after section 505 the following:

#### "SEC. 505A. PEDIATRIC STUDIES OF DRUGS.

"(a) MARKET EXCLUSIVITY FOR NEW DRUGS.—If, prior to approval of an application that is submitted under section 505(b)(1), the Secretary determines that information relating to the use of a new drug in the pediatric population may produce health benefits in that population, the Secretary makes a written request for pediatric studies (which shall include a timeframe for completing such studies), and such studies are completed within any such timeframe and the reports thereof submitted in accordance with subsection (d)(2) or accepted in accordance with subsection (d)(3)—

"(1)(A)(i) the period referred to in subsection (c)(3)(D)(ii) of section 505, and in subsection (j)(4)(D)(ii) of such section, is deemed to be five years and six months rather than five years, and the references in subsections (c)(3)(D)(ii) and (j)(4)(D)(ii) of such section to four years, to forty-eight months, and to seven and one-half years are deemed to be four and one-half years, fifty-four months, and eight years, respectively; or

"(ii) the period referred to in clauses (iii) and (iv) of subsection (c)(3)(D) of such section, and in clauses (iii) and (iv) of subsection (j)(4)(D) of such section, is deemed to be three years and six months rather than three years; and

"(B) if the drug is designated under section 526 for a rare disease or condition, the period referred to in section 527(a) is deemed to be seven years and six months rather than seven years; and

"(2)(A) if the drug is the subject of—

"(i) a listed patent for which a certification has been submitted under subsection (b)(2)(A)(ii) or (j)(2)(A)(vii)(II) of section 505 and for which pediatric studies were submitted prior to the expiration of the patent (including any patent extensions); or

"(ii) a listed patent for which a certification has been submitted under subsections (b)(2)(A)(iii) or (j)(2)(A)(vii)(III) of section 505, the period during which an application may not be approved under section 505(c)(3) or section 505(j)(4)(B) shall be extended by a period of six months after the date the patent expires (including any patent extensions); or

"(B) if the drug is the subject of a listed patent for which a certification has been submitted under subsection (b)(2)(A)(iv) or (j)(2)(A)(vii)(IV) of section 505, and in the patent infringement litigation resulting from the certification the court determines that the patent is valid and would be infringed, the period during which an application may not be approved under section 505(c)(3) or section 505(j)(4)(B) shall be extended by a period of six months after the date the patent expires (including any patent extensions).

"(b) SECRETARY TO DEVELOP LIST OF DRUGS FOR WHICH ADDITIONAL PEDIATRIC INFORMATION MAY BE BENEFICIAL.—Not later than 180 days after the date of enactment of the Food and Drug Administration Modernization Act of 1997, the Secretary, after consultation with experts in pediatric research shall develop, prioritize, and publish an initial list of approved drugs for which additional pediatric information may produce health benefits in the pediatric population. The Secretary shall annually update the list.

"(c) MARKET EXCLUSIVITY FOR ALREADY-MARKETED DRUGS.—If the Secretary makes a written request to the holder of an approved application under section 505(b)(1) for pediatric studies (which shall include a timeframe for completing such studies) concerning a drug identified in the list described in subsection (b),

the holder agrees to the request, the studies are completed within any such timeframe, and the reports thereof are submitted in accordance with subsection (d)(2) or accepted in accordance with subsection (d)(3)—

“(1)(A)(i) the period referred to in subsection (c)(3)(D)(ii) of section 505, and in subsection (j)(4)(D)(ii) of such section, is deemed to be five years and six months rather than five years, and the references in subsections (c)(3)(D)(ii) and (j)(4)(D)(ii) of such section to four years, to forty-eight months, and to seven and one-half years are deemed to be four and one-half years, fifty-four months, and eight years, respectively; or

“(ii) the period referred to in clauses (iii) and (iv) of subsection (c)(3)(D) of such section, and in clauses (iii) and (iv) of subsection (j)(4)(D) of such section, is deemed to be three years and six months rather than three years; and

“(B) if the drug is designated under section 526 for a rare disease or condition, the period referred to in section 527(a) is deemed to be seven years and six months rather than seven years; and

“(2)(A) if the drug is the subject of—

“(i) a listed patent for which a certification has been submitted under subsection (b)(2)(A)(ii) or (j)(2)(A)(vii)(II) of section 505 and for which pediatric studies were submitted prior to the expiration of the patent (including any patent extensions); or

“(ii) a listed patent for which a certification has been submitted under subsection (b)(2)(A)(iii) or (j)(2)(A)(vii)(III) of section 505, the period during which an application may not be approved under section 505(c)(3) or section 505(j)(4)(B) shall be extended by a period of six months after the date the patent expires (including any patent extensions); or

“(B) if the drug is the subject of a listed patent for which a certification has been submitted under subsection (b)(2)(A)(iv) or (j)(2)(A)(vii)(IV) of section 505, and in the patent infringement litigation resulting from the certification the court determines that the patent is valid and would be infringed, the period during which an application may not be approved under section 505(c)(3) or section 505(j)(4)(B) shall be extended by a period of six months after the date the patent expires (including any patent extensions).

“(d) CONDUCT OF PEDIATRIC STUDIES.—

“(1) AGREEMENT FOR STUDIES.—The Secretary may, pursuant to a written request from the Secretary under subsection (a) or (c), after consultation with—

“(A) the sponsor of an application for an investigational new drug under section 505(i);

“(B) the sponsor of an application for a new drug under section 505(b)(1); or

“(C) the holder of an approved application for a drug under section 505(b)(1),

agree with the sponsor or holder for the conduct of pediatric studies for such drug. Such agreement shall be in writing and shall include a timeframe for such studies.

“(2) WRITTEN PROTOCOLS TO MEET THE STUDIES REQUIREMENT.—If the sponsor or holder and the Secretary agree upon written protocols for the studies, the studies requirement of subsection (a) or (c) is satisfied upon the completion of the studies and submission of the reports thereof in accordance with the original written request and the written agreement referred to in paragraph (1). Not later than 60 days after the submission of the report of the studies, the Secretary shall determine if such studies were or were not conducted in accordance with the original written request and the written agreement and reported in accordance with the requirements of the Secretary for filing and so notify the sponsor or holder.

“(3) OTHER METHODS TO MEET THE STUDIES REQUIREMENT.—If the sponsor or holder and the

Secretary have not agreed in writing on the protocols for the studies, the studies requirement of subsection (a) or (c) is satisfied when such studies have been completed and the reports accepted by the Secretary. Not later than 90 days after the submission of the reports of the studies, the Secretary shall accept or reject such reports and so notify the sponsor or holder. The Secretary's only responsibility in accepting or rejecting the reports shall be to determine, within the 90 days, whether the studies fairly respond to the written request, have been conducted in accordance with commonly accepted scientific principles and protocols, and have been reported in accordance with the requirements of the Secretary for filing.

“(e) DELAY OF EFFECTIVE DATE FOR CERTAIN APPLICATION.—If the Secretary determines that the acceptance or approval of an application under section 505(b)(2) or 505(j) for a new drug may occur after submission of reports of pediatric studies under this section, which were submitted prior to the expiration of the patent (including any patent extension) or the applicable period under clauses (ii) through (iv) of section 505(c)(3)(D) or clauses (ii) through (iv) of section 505(j)(4)(D), but before the Secretary has determined whether the requirements of subsection (d) have been satisfied, the Secretary shall delay the acceptance or approval under section 505(b)(2) or 505(j) until the determination under subsection (d) is made, but any such delay shall not exceed 90 days. In the event that requirements of this section are satisfied, the applicable six-month period under subsection (a) or (c) shall be deemed to have been running during the period of delay.

“(f) NOTICE OF DETERMINATIONS ON STUDIES REQUIREMENT.—The Secretary shall publish a notice of any determination that the requirements of subsection (d) have been met and that submissions and approvals under subsection (b)(2) or (j) of section 505 for a drug will be subject to the provisions of this section.

“(g) DEFINITIONS.—As used in this section, the term ‘pediatric studies’ or ‘studies’ means at least one clinical investigation (that, at the Secretary's discretion, may include pharmacokinetic studies) in pediatric age groups in which a drug is anticipated to be used.

“(h) LIMITATIONS.—A drug to which the six-month period under subsection (a) or (b) has already been applied—

“(1) may receive an additional six-month period under subsection (c)(1)(A)(ii) for a supplemental application if all other requirements under this section are satisfied, except that such a drug may not receive any additional such period under subsection (c)(2); and

“(2) may not receive any additional such period under subsection (c)(1)(B).

“(i) RELATIONSHIP TO REGULATIONS.—Notwithstanding any other provision of law, if any pediatric study is required pursuant to regulations promulgated by the Secretary and such study meets the completeness, timeliness, and other requirements of this section, such study shall be deemed to satisfy the requirement for market exclusivity pursuant to this section.

“(j) SUNSET.—A drug may not receive any six-month period under subsection (a) or (c) unless the application for the drug under section 505(b)(1) is submitted on or before January 1, 2002. After January 1, 2002, a drug shall receive a six-month period under subsection (c) if—

“(1) the drug was in commercial distribution as of the date of enactment of the Food and Drug Administration Modernization Act of 1997;

“(2) the drug was included by the Secretary on the list under subsection (b) as of January 1, 2002;

“(3) the Secretary determines that there is a continuing need for information relating to the use of the drug in the pediatric population and

that the drug may provide health benefits in that population; and

“(4) all requirements of this section are met.

“(k) REPORT.—The Secretary shall conduct a study and report to Congress not later than January 1, 2001, based on the experience under the program established under this section. The study and report shall examine all relevant issues, including—

“(1) the effectiveness of the program in improving information about important pediatric uses for approved drugs;

“(2) the adequacy of the incentive provided under this section;

“(3) the economic impact of the program on taxpayers and consumers, including the impact of the lack of lower cost generic drugs on patients, including on lower income patients; and

“(4) any suggestions for modification that the Secretary determines to be appropriate.”

#### SEC. 112. EXPEDITING STUDY AND APPROVAL OF FAST TRACK DRUGS.

(a) IN GENERAL.—Chapter V (21 U.S.C. 351 et seq.), as amended by section 125, is amended by inserting before section 508 the following:

##### “SEC. 506. FAST TRACK PRODUCTS.

“(a) DESIGNATION OF DRUG AS A FAST TRACK PRODUCT.—

“(1) IN GENERAL.—The Secretary shall, at the request of the sponsor of a new drug, facilitate the development and expedite the review of such drug if it is intended for the treatment of a serious or life-threatening condition and it demonstrates the potential to address unmet medical needs for such a condition. (In this section, such a drug is referred to as a ‘fast track product.’)

“(2) REQUEST FOR DESIGNATION.—The sponsor of a new drug may request the Secretary to designate the drug as a fast track product. A request for the designation may be made concurrently with, or at any time after, submission of an application for the investigation of the drug under section 505(i) or section 351(a)(3) of the Public Health Service Act.

“(3) DESIGNATION.—Within 60 calendar days after the receipt of a request under paragraph (2), the Secretary shall determine whether the drug that is the subject of the request meets the criteria described in paragraph (1). If the Secretary finds that the drug meets the criteria, the Secretary shall designate the drug as a fast track product and shall take such actions as are appropriate to expedite the development and review of the application for approval of such product.

“(b) APPROVAL OF APPLICATION FOR A FAST TRACK PRODUCT.—

“(1) IN GENERAL.—The Secretary may approve an application for approval of a fast track product under section 505(c) or section 351 of the Public Health Service Act upon a determination that the product has an effect on a clinical endpoint or on a surrogate endpoint that is reasonably likely to predict clinical benefit.

“(2) LIMITATION.—Approval of a fast track product under this subsection may be subject to the requirements—

“(A) that the sponsor conduct appropriate post-approval studies to validate the surrogate endpoint or otherwise confirm the effect on the clinical endpoint; and

“(B) that the sponsor submit copies of all promotional materials related to the fast track product during the preapproval review period and, following approval and for such period thereafter as the Secretary determines to be appropriate, at least 30 days prior to dissemination of the materials.

“(3) EXPEDITED WITHDRAWAL OF APPROVAL.—The Secretary may withdraw approval of a fast track product using expedited procedures (as prescribed by the Secretary in regulations which shall include an opportunity for an informal hearing) if—

"(A) the sponsor fails to conduct any required post-approval study of the fast track drug with due diligence;

"(B) a post-approval study of the fast track product fails to verify clinical benefit of the product;

"(C) other evidence demonstrates that the fast track product is not safe or effective under the conditions of use; or

"(D) the sponsor disseminates false or misleading promotional materials with respect to the product.

"(c) REVIEW OF INCOMPLETE APPLICATIONS FOR APPROVAL OF A FAST TRACK PRODUCT.—

"(1) IN GENERAL.—If the Secretary determines, after preliminary evaluation of clinical data submitted by the sponsor, that a fast track product may be effective, the Secretary shall evaluate for filing, and may commence review of portions of, an application for the approval of the product before the sponsor submits a complete application. The Secretary shall commence such review only if the applicant—

"(A) provides a schedule for submission of information necessary to make the application complete; and

"(B) pays any fee that may be required under section 736.

"(2) EXCEPTION.—Any time period for review of human drug applications that has been agreed to by the Secretary and that has been set forth in goals identified in letters of the Secretary (relating to the use of fees collected under section 736 to expedite the drug development process and the review of human drug applications) shall not apply to an application submitted under paragraph (1) until the date on which the application is complete.

"(d) AWARENESS EFFORTS.—The Secretary shall—

"(1) develop and disseminate to physicians, patient organizations, pharmaceutical and biotechnology companies, and other appropriate persons a description of the provisions of this section applicable to fast track products; and

"(2) establish a program to encourage the development of surrogate endpoints that are reasonably likely to predict clinical benefit for serious or life-threatening conditions for which there exist significant unmet medical needs."

(b) GUIDANCE.—Within 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall issue guidance for fast track products (as defined in section 506(a)(1) of the Federal Food, Drug, and Cosmetic Act) that describes the policies and procedures that pertain to section 506 of such Act.

#### SEC. 113. INFORMATION PROGRAM ON CLINICAL TRIALS FOR SERIOUS OR LIFE-THREATENING DISEASES.

(a) IN GENERAL.—Section 402 of the Public Health Service Act (42 U.S.C. 282) is amended—

(1) by redesignating subsections (j) and (k) as subsections (k) and (l), respectively; and

(2) by inserting after subsection (l) the following:

"(j)(1)(A) The Secretary, acting through the Director of NIH, shall establish, maintain, and operate a data bank of information on clinical trials for drugs for serious or life-threatening diseases and conditions (in this subsection referred to as the 'data bank'). The activities of the data bank shall be integrated and coordinated with related activities of other agencies of the Department of Health and Human Services, and to the extent practicable, coordinated with other data banks containing similar information.

"(B) The Secretary shall establish the data bank after consultation with the Commissioner of Food and Drugs, the directors of the appropriate agencies of the National Institutes of Health (including the National Library of Medicine), and the Director of the Centers for Disease Control and Prevention.

"(2) In carrying out paragraph (1), the Secretary shall collect, catalog, store, and disseminate the information described in such paragraph. The Secretary shall disseminate such information through information systems, which shall include toll-free telephone communications, available to individuals with serious or life-threatening diseases and conditions, to other members of the public, to health care providers, and to researchers.

"(3) The data bank shall include the following:

"(A) A registry of clinical trials (whether federally or privately funded) of experimental treatments for serious or life-threatening diseases and conditions under regulations promulgated pursuant to section 505(i) of the Federal Food, Drug, and Cosmetic Act, which provides a description of the purpose of each experimental drug, either with the consent of the protocol sponsor, or when a trial to test effectiveness begins. Information provided shall consist of eligibility criteria for participation in the clinical trials, a description of the location of trial sites, and a point of contact for those wanting to enroll in the trial, and shall be in a form that can be readily understood by members of the public. Such information shall be forwarded to the data bank by the sponsor of the trial not later than 21 days after the approval of the protocol.

"(B) Information pertaining to experimental treatments for serious or life-threatening diseases and conditions that may be available—

"(i) under a treatment investigational new drug application that has been submitted to the Secretary under section 561(c) of the Federal Food, Drug, and Cosmetic Act; or

"(ii) as a Group C cancer drug (as defined by the National Cancer Institute).

The data bank may also include information pertaining to the results of clinical trials of such treatments, with the consent of the sponsor, including information concerning potential toxicities or adverse effects associated with the use or administration of such experimental treatments.

"(4) The data bank shall not include information relating to an investigation if the sponsor has provided a detailed certification to the Secretary that disclosure of such information would substantially interfere with the timely enrollment of subjects in the investigation, unless the Secretary, after the receipt of the certification, provides the sponsor with a detailed written determination that such disclosure would not substantially interfere with such enrollment.

"(5) For the purpose of carrying out this subsection, there are authorized to be appropriated such sums as may be necessary. Fees collected under section 736 of the Federal Food, Drug, and Cosmetic Act shall not be used in carrying out this subsection."

(b) COLLABORATION AND REPORT.—

(1) IN GENERAL.—The Secretary of Health and Human Services, the Director of the National Institutes of Health, and the Commissioner of Food and Drugs shall collaborate to determine the feasibility of including device investigations within the scope of the data bank under section 402(j) of the Public Health Service Act.

(2) REPORT.—Not later than two years after the date of enactment of this section, the Secretary of Health and Human Services shall prepare and submit to the Committee on Labor and Human Resources of the Senate and the Committee on Commerce of the House of Representatives a report—

(A) of the public health need, if any, for inclusion of device investigations within the scope of the data bank under section 402(j) of the Public Health Service Act;

(B) on the adverse impact, if any, on device innovation and research in the United States if information relating to such device investigations is required to be publicly disclosed; and

(C) on such other issues relating to such section 402(j) as the Secretary determines to be appropriate.

#### SEC. 114. HEALTH CARE ECONOMIC INFORMATION.

(a) IN GENERAL.—Section 502(a) (21 U.S.C. 352(a)) is amended by adding at the end the following: "Health care economic information provided to a formulary committee, or other similar entity, in the course of the committee or the entity carrying out its responsibilities for the selection of drugs for managed care or other similar organizations, shall not be considered to be false or misleading under this paragraph if the health care economic information directly relates to an indication approved under section 505 or under section 351(a) of the Public Health Service Act for such drug and is based on competent and reliable scientific evidence. The requirements set forth in section 505(a) or in section 351(a) of the Public Health Service Act shall not apply to health care economic information provided to such a committee or entity in accordance with this paragraph. Information that is relevant to the substantiation of the health care economic information presented pursuant to this paragraph shall be made available to the Secretary upon request. In this paragraph, the term 'health care economic information' means any analysis that identifies, measures, or compares the economic consequences, including the costs of the represented health outcomes, of the use of a drug to the use of another drug, to another health care intervention, or to no intervention."

(b) STUDY AND REPORT.—The Comptroller General of the United States shall conduct a study of the implementation of the provisions added by the amendment made by subsection (a). Not later than 4 years and 6 months after the date of enactment of this Act, the Comptroller General of the United States shall prepare and submit to Congress a report containing the findings of the study.

#### SEC. 115. CLINICAL INVESTIGATIONS.

(a) CLARIFICATION OF THE NUMBER OF REQUIRED CLINICAL INVESTIGATIONS FOR APPROVAL.—Section 505(d) (21 U.S.C. 355(d)) is amended by adding at the end the following: "If the Secretary determines, based on relevant science, that data from one adequate and well-controlled clinical investigation and confirmatory evidence (obtained prior to or after such investigation) are sufficient to establish effectiveness, the Secretary may consider such data and evidence to constitute substantial evidence for purposes of the preceding sentence."

(b) WOMEN AND MINORITIES.—Section 505(b)(1) (21 U.S.C. 355(b)(1)) is amended by adding at the end the following: "The Secretary shall, in consultation with the Director of the National Institutes of Health and with representatives of the drug manufacturing industry, review and develop guidance, as appropriate, on the inclusion of women and minorities in clinical trials required by clause (A)."

#### SEC. 116. MANUFACTURING CHANGES FOR DRUGS.

(a) IN GENERAL.—Chapter V, as amended by section 112, is amended by inserting after section 506 the following section:

##### "SEC. 506A. MANUFACTURING CHANGES.

"(a) IN GENERAL.—With respect to a drug for which there is in effect an approved application under section 505 or 512 or a license under section 351 of the Public Health Service Act, a change from the manufacturing process approved pursuant to such application or license may be made, and the drug as made with the change may be distributed, if—

"(1) the holder of the approved application or license (referred to in this section as a 'holder') has validated the effects of the change in accordance with subsection (b); and

"(2)(A) in the case of a major manufacturing change, the holder has complied with the requirements of subsection (c); or

"(B) in the case of a change that is not a major manufacturing change, the holder complies with the applicable requirements of subsection (d).

"(b) VALIDATION OF EFFECTS OF CHANGES.—For purposes of subsection (a)(1), a drug made with a manufacturing change (whether a major manufacturing change or otherwise) may be distributed only if, before distribution of the drug as so made, the holder involved validates the effects of the change on the identity, strength, quality, purity, and potency of the drug as the identity, strength, quality, purity, and potency may relate to the safety or effectiveness of the drug.

"(c) MAJOR MANUFACTURING CHANGES.—

"(1) REQUIREMENT OF SUPPLEMENTAL APPLICATION.—For purposes of subsection (a)(2)(A), a drug made with a major manufacturing change may be distributed only if, before the distribution of the drug as so made, the holder involved submits to the Secretary a supplemental application for such change and the Secretary approves the application. The application shall contain such information as the Secretary determines to be appropriate, and shall include the information developed under subsection (b) by the holder in validating the effects of the change.

"(2) CHANGES QUALIFYING AS MAJOR CHANGES.—For purposes of subsection (a)(2)(A), a major manufacturing change is a manufacturing change that is determined by the Secretary to have substantial potential to adversely affect the identity, strength, quality, purity, or potency of the drug as they may relate to the safety or effectiveness of a drug. Such a change includes a change that—

"(A) is made in the qualitative or quantitative formulation of the drug involved or in the specifications in the approved application or license referred to in subsection (a) for the drug (unless exempted by the Secretary by regulation or guidance from the requirements of this subsection);

"(B) is determined by the Secretary by regulation or guidance to require completion of an appropriate clinical study demonstrating equivalence of the drug to the drug as manufactured without the change; or

"(C) is another type of change determined by the Secretary by regulation or guidance to have a substantial potential to adversely affect the safety or effectiveness of the drug.

"(d) OTHER MANUFACTURING CHANGES.—

"(1) IN GENERAL.—For purposes of subsection (a)(2)(B), the Secretary may regulate drugs made with manufacturing changes that are not major manufacturing changes as follows:

"(A) The Secretary may in accordance with paragraph (2) authorize holders to distribute such drugs without submitting a supplemental application for such changes.

"(B) The Secretary may in accordance with paragraph (3) require that, prior to the distribution of such drugs, holders submit to the Secretary supplemental applications for such changes.

"(C) The Secretary may establish categories of such changes and designate categories to which subparagraph (A) applies and categories to which subparagraph (B) applies.

"(2) CHANGES NOT REQUIRING SUPPLEMENTAL APPLICATION.—

"(A) SUBMISSION OF REPORT.—A holder making a manufacturing change to which paragraph (1)(A) applies shall submit to the Secretary a report on the change, which shall contain such information as the Secretary determines to be appropriate, and which shall include the information developed under subsection (b) by the holder in validating the effects

of the change. The report shall be submitted by such date as the Secretary may specify.

"(B) AUTHORITY REGARDING ANNUAL REPORTS.—In the case of a holder that during a single year makes more than one manufacturing change to which paragraph (1)(A) applies, the Secretary may in carrying out subparagraph (A) authorize the holder to comply with such subparagraph by submitting a single report for the year that provides the information required in such subparagraph for all the changes made by the holder during the year.

"(3) CHANGES REQUIRING SUPPLEMENTAL APPLICATION.—

"(A) SUBMISSION OF SUPPLEMENTAL APPLICATION.—The supplemental application required under paragraph (1)(B) for a manufacturing change shall contain such information as the Secretary determines to be appropriate, which shall include the information developed under subsection (b) by the holder in validating the effects of the change.

"(B) AUTHORITY FOR DISTRIBUTION.—In the case of a manufacturing change to which paragraph (1)(B) applies:

"(i) The holder involved may commence distribution of the drug involved 30 days after the Secretary receives the supplemental application under such paragraph, unless the Secretary notifies the holder within such 30-day period that prior approval of the application is required before distribution may be commenced.

"(ii) The Secretary may designate a category of such changes for the purpose of providing that, in the case of a change that is in such category, the holder involved may commence distribution of the drug involved upon the receipt by the Secretary of a supplemental application for the change.

"(iii) If the Secretary disapproves the supplemental application, the Secretary may order the manufacturer to cease the distribution of the drugs that have been made with the manufacturing change."

(b) TRANSITION RULE.—The amendment made by subsection (a) takes effect upon the effective date of regulations promulgated by the Secretary of Health and Human Services to implement such amendment, or upon the expiration of the 24-month period beginning on the date of the enactment of this Act, whichever occurs first.

#### SEC. 117. STREAMLINING CLINICAL RESEARCH ON DRUGS.

Section 505(i) (21 U.S.C. 355(i)) is amended—

(1) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C), respectively;

(2) by inserting "(1)" after "(i)";

(3) by striking the last two sentences; and

(4) by inserting after paragraph (1) (as designated by paragraph (2) of this section) the following new paragraphs:

"(2) Subject to paragraph (3), a clinical investigation of a new drug may begin 30 days after the Secretary has received from the manufacturer or sponsor of the investigation a submission containing such information about the drug and the clinical investigation, including—

"(A) information on design of the investigation and adequate reports of basic information, certified by the applicant to be accurate reports, necessary to assess the safety of the drug for use in clinical investigation; and

"(B) adequate information on the chemistry and manufacturing of the drug, controls available for the drug, and primary data tabulations from animal or human studies.

"(3)(A) At any time, the Secretary may prohibit the sponsor of an investigation from conducting the investigation (referred to in this paragraph as a 'clinical hold') if the Secretary makes a determination described in subparagraph (B). The Secretary shall specify the basis

for the clinical hold, including the specific information available to the Secretary which served as the basis for such clinical hold, and confirm such determination in writing.

"(B) For purposes of subparagraph (A), a determination described in this subparagraph with respect to a clinical hold is that—

"(i) the drug involved represents an unreasonable risk to the safety of the persons who are the subjects of the clinical investigation, taking into account the qualifications of the clinical investigators, information about the drug, the design of the clinical investigation, the condition for which the drug is to be investigated, and the health status of the subjects involved; or

"(ii) the clinical hold should be issued for such other reasons as the Secretary may by regulation establish (including reasons established by regulation before the date of the enactment of the Food and Drug Administration Modernization Act of 1997).

"(C) Any written request to the Secretary from the sponsor of an investigation that a clinical hold be removed shall receive a decision, in writing and specifying the reasons therefor, within 30 days after receipt of such request. Any such request shall include sufficient information to support the removal of such clinical hold.

"(4) Regulations under paragraph (1) shall provide that such exemption shall be conditioned upon the manufacturer, or the sponsor of the investigation, requiring that experts using such drugs for investigational purposes certify to such manufacturer or sponsor that they will inform any human beings to whom such drugs, or any controls used in connection therewith, are being administered, or their representatives, that such drugs are being used for investigational purposes and will obtain the consent of such human beings or their representatives, except where it is not feasible or it is contrary to the best interests of such human beings. Nothing in this subsection shall be construed to require any clinical investigator to submit directly to the Secretary reports on the investigational use of drugs."

#### SEC. 118. DATA REQUIREMENTS FOR DRUGS AND BIOLOGICS.

Within 12 months after the date of enactment of this Act, the Secretary of Health and Human Services, acting through the Commissioner of Food and Drugs, shall issue guidance that describes when abbreviated study reports may be submitted, in lieu of full reports, with a new drug application under section 505(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(b)) and with a biologics license application under section 351 of the Public Health Service Act (42 U.S.C. 262) for certain types of studies. Such guidance shall describe the kinds of studies for which abbreviated reports are appropriate and the appropriate abbreviated report formats.

#### SEC. 119. CONTENT AND REVIEW OF APPLICATIONS.

(a) SECTION 505(b).—Section 505(b) (21 U.S.C. 355(b)) is amended by adding at the end the following:

"(4)(A) The Secretary shall issue guidance for the individuals who review applications submitted under paragraph (1) or under section 351 of the Public Health Service Act, which shall relate to promptness in conducting the review, technical excellence, lack of bias and conflict of interest, and knowledge of regulatory and scientific standards, and which shall apply equally to all individuals who review such applications.

"(B) The Secretary shall meet with a sponsor of an investigation or an applicant for approval for a drug under this subsection or section 351 of the Public Health Service Act if the sponsor or applicant makes a reasonable written request

for a meeting for the purpose of reaching agreement on the design and size of clinical trials intended to form the primary basis of an effectiveness claim. The sponsor or applicant shall provide information necessary for discussion and agreement on the design and size of the clinical trials. Minutes of any such meeting shall be prepared by the Secretary and made available to the sponsor or applicant upon request.

"(C) Any agreement regarding the parameters of the design and size of clinical trials of a new drug under this paragraph that is reached between the Secretary and a sponsor or applicant shall be reduced to writing and made part of the administrative record by the Secretary. Such agreement shall not be changed after the testing begins, except—

"(i) with the written agreement of the sponsor or applicant; or

"(ii) pursuant to a decision, made in accordance with subparagraph (D) by the director of the reviewing division, that a substantial scientific issue essential to determining the safety or effectiveness of the drug has been identified after the testing has begun.

"(D) A decision under subparagraph (C)(ii) by the director shall be in writing and the Secretary shall provide to the sponsor or applicant an opportunity for a meeting at which the director and the sponsor or applicant will be present and at which the director will document the scientific issue involved.

"(E) The written decisions of the reviewing division shall be binding upon, and may not directly or indirectly be changed by, the field or compliance division personnel unless such field or compliance division personnel demonstrate to the reviewing division why such decision should be modified.

"(F) No action by the reviewing division may be delayed because of the unavailability of information from or action by field personnel unless the reviewing division determines that a delay is necessary to assure the marketing of a safe and effective drug.

"(G) For purposes of this paragraph, the reviewing division is the division responsible for the review of an application for approval of a drug under this subsection or section 351 of the Public Health Service Act (including all scientific and medical matters, chemistry, manufacturing, and controls)."

(b) SECTION 505(j).—

(1) AMENDMENT.—Section 505(j) (21 U.S.C. 355(j)) is amended—

(A) by redesignating paragraphs (3) through (8) as paragraphs (4) through (9), respectively; and

(B) by adding after paragraph (2) the following:

"(3)(A) The Secretary shall issue guidance for the individuals who review applications submitted under paragraph (1), which shall relate to promptness in conducting the review, technical excellence, lack of bias and conflict of interest, and knowledge of regulatory and scientific standards, and which shall apply equally to all individuals who review such applications.

"(B) The Secretary shall meet with a sponsor of an investigation or an applicant for approval for a drug under this subsection if the sponsor or applicant makes a reasonable written request for a meeting for the purpose of reaching agreement on the design and size of bioavailability and bioequivalence studies needed for approval of such application. The sponsor or applicant shall provide information necessary for discussion and agreement on the design and size of such studies. Minutes of any such meeting shall be prepared by the Secretary and made available to the sponsor or applicant.

"(C) Any agreement regarding the parameters of design and size of bioavailability and bioequivalence studies of a drug under this para-

graph that is reached between the Secretary and a sponsor or applicant shall be reduced to writing and made part of the administrative record by the Secretary. Such agreement shall not be changed after the testing begins, except—

"(i) with the written agreement of the sponsor or applicant; or

"(ii) pursuant to a decision, made in accordance with subparagraph (D) by the director of the reviewing division, that a substantial scientific issue essential to determining the safety or effectiveness of the drug has been identified after the testing has begun.

"(D) A decision under subparagraph (C)(ii) by the director shall be in writing and the Secretary shall provide to the sponsor or applicant an opportunity for a meeting at which the director and the sponsor or applicant will be present and at which the director will document the scientific issue involved.

"(E) The written decisions of the reviewing division shall be binding upon, and may not directly or indirectly be changed by, the field or compliance office personnel unless such field or compliance office personnel demonstrate to the reviewing division why such decision should be modified.

"(F) No action by the reviewing division may be delayed because of the unavailability of information from or action by field personnel unless the reviewing division determines that a delay is necessary to assure the marketing of a safe and effective drug.

"(G) For purposes of this paragraph, the reviewing division is the division responsible for the review of an application for approval of a drug under this subsection (including scientific matters, chemistry, manufacturing, and controls)."

(2) CONFORMING AMENDMENTS.—Section 505(j) (21 U.S.C. 355(j)), as amended by paragraph (1), is further amended—

(A) in paragraph (2)(A)(i), by striking "(6)" and inserting "(7)";

(B) in paragraph (4) (as redesignated in paragraph (1)), by striking "(4)" and inserting "(5)";

(C) in paragraph (4)(I) (as redesignated in paragraph (1)), by striking "(5)" and inserting "(6)"; and

(D) in paragraph (7)(C) (as redesignated in paragraph (1)), by striking "(5)" each place it occurs and inserting "(6)".

#### SEC. 120. SCIENTIFIC ADVISORY PANELS.

Section 505 (21 U.S.C. 355) is amended by adding at the end the following:

"(n)(1) For the purpose of providing expert scientific advice and recommendations to the Secretary regarding a clinical investigation of a drug or the approval for marketing of a drug under section 505 or section 351 of the Public Health Service Act, the Secretary shall establish panels of experts or use panels of experts established before the date of enactment of the Food and Drug Administration Modernization Act of 1997, or both.

"(2) The Secretary may delegate the appointment and oversight authority granted under section 904 to a director of a center or successor entity within the Food and Drug Administration.

"(3) The Secretary shall make appointments to each panel established under paragraph (1) so that each panel shall consist of—

"(A) members who are qualified by training and experience to evaluate the safety and effectiveness of the drugs to be referred to the panel and who, to the extent feasible, possess skill and experience in the development, manufacture, or utilization of such drugs;

"(B) members with diverse expertise in such fields as clinical and administrative medicine, pharmacy, pharmacology, pharmacoeconomics, biological and physical sciences, and other related professions;

"(C) a representative of consumer interests, and a representative of interests of the drug manufacturing industry not directly affected by the matter to be brought before the panel; and

"(D) two or more members who are specialists or have other expertise in the particular disease or condition for which the drug under review is proposed to be indicated.

Scientific, trade, and consumer organizations shall be afforded an opportunity to nominate individuals for appointment to the panels. No individual who is in the regular full-time employ of the United States and engaged in the administration of this Act may be a voting member of any panel. The Secretary shall designate one of the members of each panel to serve as chairman thereof.

"(4) Each member of a panel shall publicly disclose all conflicts of interest that member may have with the work to be undertaken by the panel. No member of a panel may vote on any matter where the member or the immediate family of such member could gain financially from the advice given to the Secretary. The Secretary may grant a waiver of any conflict of interest requirement upon public disclosure of such conflict of interest if such waiver is necessary to afford the panel essential expertise, except that the Secretary may not grant a waiver for a member of a panel when the member's own scientific work is involved.

"(5) The Secretary shall, as appropriate, provide education and training to each new panel member before such member participates in a panel's activities, including education regarding requirements under this Act and related regulations of the Secretary, and the administrative processes and procedures related to panel meetings.

"(6) Panel members (other than officers or employees of the United States), while attending meetings or conferences of a panel or otherwise engaged in its business, shall be entitled to receive compensation for each day so engaged, including traveltime, at rates to be fixed by the Secretary, but not to exceed the daily equivalent of the rate in effect for positions classified above grade GS-15 of the General Schedule. While serving away from their homes or regular places of business, panel members may be allowed travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(7) The Secretary shall ensure that scientific advisory panels meet regularly and at appropriate intervals so that any matter to be reviewed by such a panel can be presented to the panel not more than 60 days after the matter is ready for such review. Meetings of the panel may be held using electronic communication to convene the meetings.

"(8) Within 90 days after a scientific advisory panel makes recommendations on any matter under its review, the Food and Drug Administration official responsible for the matter shall review the conclusions and recommendations of the panel, and notify the affected persons of the final decision on the matter, or of the reasons that no such decision has been reached. Each such final decision shall be documented including the rationale for the decision."

#### SEC. 121. POSITRON EMISSION TOMOGRAPHY.

(a) REGULATION OF COMPOUNDED POSITRON EMISSION TOMOGRAPHY DRUGS.—Section 201 (21 U.S.C. 321) is amended by adding at the end the following:

"(i) The term 'compounded positron emission tomography drug'—

"(I) means a drug that—

"(A) exhibits spontaneous disintegration of unstable nuclei by the emission of positrons and is used for the purpose of providing dual photon positron emission tomographic diagnostic images; and

"(B) has been compounded by or on the order of a practitioner who is licensed by a State to compound or order compounding for a drug described in subparagraph (A), and is compounded in accordance with that State's law, for a patient or for research, teaching, or quality control; and

"(2) includes any nonradioactive reagent, reagent kit, ingredient, nuclide generator, accelerator, target material, electronic synthesizer, or other apparatus or computer program to be used in the preparation of such a drug."

(b) ADULTERATION.—

(1) IN GENERAL.—Section 501(a) (21 U.S.C. 351(a)) is amended by striking ";" or (3)" and inserting the following: "; or (C) if it is a compounded positron emission tomography drug and the methods used in, or the facilities and controls used for, its compounding, processing, packing, or holding do not conform to or are not operated or administered in conformity with the positron emission tomography compounding standards and the official monographs of the United States Pharmacopoeia to assure that such drug meets the requirements of this Act as to safety and has the identity and strength, and meets the quality and purity characteristics, that it purports or is represented to possess; or (3)".

(2) SUNSET.—Section 501(a)(2)(C) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351(a)(2)(C)) shall not apply 4 years after the date of enactment of this Act or 2 years after the date on which the Secretary of Health and Human Services establishes the requirements described in subsection (c)(1)(B), whichever is later.

(c) REQUIREMENTS FOR REVIEW OF APPROVAL PROCEDURES AND CURRENT GOOD MANUFACTURING PRACTICES FOR POSITRON EMISSION TOMOGRAPHY.—

(1) PROCEDURES AND REQUIREMENTS.—

(A) IN GENERAL.—In order to take account of the special characteristics of positron emission tomography drugs and the special techniques and processes required to produce these drugs, not later than 2 years after the date of enactment of this Act, the Secretary of Health and Human Services shall establish—

(i) appropriate procedures for the approval of positron emission tomography drugs pursuant to section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355); and

(ii) appropriate current good manufacturing practice requirements for such drugs.

(B) CONSIDERATIONS AND CONSULTATION.—In establishing the procedures and requirements required by subparagraph (A), the Secretary of Health and Human Services shall take due account of any relevant differences between not-for-profit institutions that compound the drugs for their patients and commercial manufacturers of the drugs. Prior to establishing the procedures and requirements, the Secretary of Health and Human Services shall consult with patient advocacy groups, professional associations, manufacturers, and physicians and scientists licensed to make or use positron emission tomography drugs.

(2) SUBMISSION OF NEW DRUG APPLICATIONS AND ABBREVIATED NEW DRUG APPLICATIONS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary of Health and Human Services shall not require the submission of new drug applications or abbreviated new drug applications under subsection (b) or (j) of section 505 (21 U.S.C. 355), for compounded positron emission tomography drugs that are not adulterated drugs described in section 501(a)(2)(C) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351(a)(2)(C)) (as amended by subsection (b)), for a period of 4 years after the date of enactment of this Act, or for 2 years after the date on which the Secretary estab-

lishes procedures and requirements under paragraph (1), whichever is longer.

(B) EXCEPTION.—Nothing in this Act shall prohibit the voluntary submission of such applications or the review of such applications by the Secretary of Health and Human Services. Nothing in this Act shall constitute an exemption for a positron emission tomography drug from the requirements of regulations issued under section 505(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)).

(d) REVOCATION OF CERTAIN INCONSISTENT DOCUMENTS.—Within 30 days after the date of enactment of this Act, the Secretary of Health and Human Services shall publish in the Federal Register a notice terminating the application of the following notices and rule:

(1) A notice entitled "Regulation of Positron Emission Tomography Radiopharmaceutical Drug Products; Guidance; Public Workshop", published in the Federal Register on February 27, 1995, 60 Fed. Reg. 10594.

(2) A notice entitled "Draft Guideline on the Manufacture of Positron Emission Tomography Radiopharmaceutical Drug Products; Availability", published in the Federal Register on February 27, 1995, 60 Fed. Reg. 10593.

(3) A final rule entitled "Current Good Manufacturing Practice for Finished Pharmaceuticals; Positron Emission Tomography", published in the Federal Register on April 22, 1997, 62 Fed. Reg. 19493 (codified at part 211 of title 21, Code of Federal Regulations).

(e) DEFINITION.—As used in this section, the term "compounded positron emission tomography drug" has the meaning given the term in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321).

SEC. 122. REQUIREMENTS FOR RADIOPHARMACEUTICALS.

(a) REQUIREMENTS.—

(1) REGULATIONS.—

(A) PROPOSED REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Secretary of Health and Human Services, after consultation with patient advocacy groups, associations, physicians licensed to use radiopharmaceuticals, and the regulated industry, shall issue proposed regulations governing the approval of radiopharmaceuticals. The regulations shall provide that the determination of the safety and effectiveness of such a radiopharmaceutical under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) or section 351 of the Public Health Service Act (42 U.S.C. 262) shall include consideration of the proposed use of the radiopharmaceutical in the practice of medicine, the pharmacological and toxicological activity of the radiopharmaceutical (including any carrier or ligand component of the radiopharmaceutical), and the estimated absorbed radiation dose of the radiopharmaceutical.

(B) FINAL REGULATIONS.—Not later than 18 months after the date of enactment of this Act, the Secretary shall promulgate final regulations governing the approval of the radiopharmaceuticals.

(2) SPECIAL RULE.—In the case of a radiopharmaceutical, the indications for which such radiopharmaceutical is approved for marketing may, in appropriate cases, refer to manifestations of disease (such as biochemical, physiological, anatomic, or pathological processes) common to, or present in, one or more disease states.

(b) DEFINITION.—In this section, the term "radiopharmaceutical" means—

(1) an article—

(A) that is intended for use in the diagnosis or monitoring of a disease or a manifestation of a disease in humans; and

(B) that exhibits spontaneous disintegration of unstable nuclei with the emission of nuclear particles or photons; or

(2) any nonradioactive reagent kit or nuclide generator that is intended to be used in the preparation of any such article.

SEC. 123. MODERNIZATION OF REGULATION.

(a) LICENSES.—

(1) IN GENERAL.—Section 351(a) of the Public Health Service Act (42 U.S.C. 262(a)) is amended to read as follows:

"(a)(1) No person shall introduce or deliver for introduction into interstate commerce any biological product unless—

"(A) a biologics license is in effect for the biological product; and

"(B) each package of the biological product is plainly marked with—

"(i) the proper name of the biological product contained in the package;

"(ii) the name, address, and applicable license number of the manufacturer of the biological product; and

"(iii) the expiration date of the biological product.

"(2)(A) The Secretary shall establish, by regulation, requirements for the approval, suspension, and revocation of biologics licenses.

"(B) The Secretary shall approve a biologics license application—

"(i) on the basis of a demonstration that—

"(I) the biological product that is the subject of the application is safe, pure, and potent; and

"(II) the facility in which the biological product is manufactured, processed, packed, or held meets standards designed to assure that the biological product continues to be safe, pure, and potent; and

"(ii) if the applicant (or other appropriate person) consents to the inspection of the facility that is the subject of the application, in accordance with subsection (c).

"(3) The Secretary shall prescribe requirements under which a biological product undergoing investigation shall be exempt from the requirements of paragraph (1)."

(2) ELIMINATION OF EXISTING LICENSE REQUIREMENT.—Section 351(d) of the Public Health Service Act (42 U.S.C. 262(d)) is amended—

(A) by striking "(d)(1)" and all that follows through "of this section";

(B) in paragraph (2)—

(i) by striking "(2)(A) Upon" and inserting "(d)(1) Upon" and

(ii) by redesignating subparagraph (B) as paragraph (2); and

(C) in paragraph (2) (as so redesignated by subparagraph (B)(ii))—

(i) by striking "subparagraph (A)" and inserting "paragraph (1)"; and

(ii) by striking "this subparagraph" each place it appears and inserting "this paragraph".

(b) LABELING.—Section 351(b) of the Public Health Service Act (42 U.S.C. 262(b)) is amended to read as follows:

"(b) No person shall falsely label or mark any package or container of any biological product or alter any label or mark on the package or container of the biological product so as to falsify the label or mark."

(c) INSPECTION.—Section 351(c) of the Public Health Service Act (42 U.S.C. 262(c)) is amended by striking "virus, serum," and all that follows and inserting "biological product."

(d) DEFINITION; APPLICATION.—Section 351 of the Public Health Service Act (42 U.S.C. 262) is amended by adding at the end the following:

"(i) In this section, the term 'biological product' means a virus, therapeutic serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, or analogous product, or arsenamine or derivative of arsenamine (or any other trivalent organic arsenic compound), applicable to the prevention, treatment, or cure of a disease or condition of human beings."

(e) CONFORMING AMENDMENT.—Section 503(g)(4) (21 U.S.C. 353(g)(4)) is amended—

(1) in subparagraph (A)—  
(A) by striking "section 351(a)" and inserting "section 351(i)"; and

(B) by striking "262(a)" and inserting "262(i)"; and

(2) in subparagraph (B)(iii), by striking "product or establishment license under subsection (a) or (d)" and inserting "biologics license application under subsection (a)".

(f) SPECIAL RULE.—The Secretary of Health and Human Services shall take measures to minimize differences in the review and approval of products required to have approved biologics license applications under section 351 of the Public Health Service Act (42 U.S.C. 262) and products required to have approved new drug applications under section 505(b)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(b)(1)).

(g) APPLICATION OF FEDERAL FOOD, DRUG, AND COSMETIC ACT.—Section 351 of the Public Health Service Act (42 U.S.C. 262), as amended by subsection (d), is further amended by adding at the end the following:

"(j) The Federal Food, Drug, and Cosmetic Act applies to a biological product subject to regulation under this section, except that a product for which a license has been approved under subsection (a) shall not be required to have an approved application under section 505 of such Act."

(h) EXAMINATIONS AND PROCEDURES.—Paragraph (3) of section 353(d) of the Public Health Service Act (42 U.S.C. 263a(d)) is amended to read as follows:

"(3) EXAMINATIONS AND PROCEDURES.—The examinations and procedures identified in paragraph (2) are laboratory examinations and procedures that have been approved by the Food and Drug Administration for home use or that, as determined by the Secretary, are simple laboratory examinations and procedures that have an insignificant risk of an erroneous result, including those that—

"(A) employ methodologies that are so simple and accurate as to render the likelihood of erroneous results by the user negligible, or

"(B) the Secretary has determined pose no unreasonable risk of harm to the patient if performed incorrectly."

#### SEC. 124. PILOT AND SMALL SCALE MANUFACTURE.

(a) HUMAN DRUGS.—Section 505(c) (21 U.S.C. 355(c)) is amended by adding at the end the following:

"(4) A drug manufactured in a pilot or other small facility may be used to demonstrate the safety and effectiveness of the drug and to obtain approval for the drug prior to manufacture of the drug in a larger facility, unless the Secretary makes a determination that a full scale production facility is necessary to ensure the safety or effectiveness of the drug."

(b) ANIMAL DRUGS.—Section 512(c) (21 U.S.C. 360b(c)) is amended by adding at the end the following:

"(4) A drug manufactured in a pilot or other small facility may be used to demonstrate the safety and effectiveness of the drug and to obtain approval for the drug prior to manufacture of the drug in a larger facility, unless the Secretary makes a determination that a full scale production facility is necessary to ensure the safety or effectiveness of the drug."

#### SEC. 125. INSULIN AND ANTIBIOTICS.

(a) CERTIFICATION OF DRUGS CONTAINING INSULIN.—

(1) AMENDMENT.—Section 506 (21 U.S.C. 356), as in effect before the date of the enactment of this Act, is repealed.

(2) CONFORMING AMENDMENTS.—

(A) Section 301(j) (21 U.S.C. 331(j)) is amended by striking "506, 507,".

(B) Subsection (k) of section 502 (21 U.S.C. 352) is repealed.

(C) Sections 301(i)(1), 510(j)(1)(A), and 510(j)(1)(D) (21 U.S.C. 331(i)(1), 360(j)(1)(A), 360(j)(1)(D)) are each amended by striking "506, 507,".

(D) Section 801(d)(1) (21 U.S.C. 381(d)(1)) is amended by inserting after "503(b)" the following: "or composed wholly or partly of insulin".

(E) Section 8126(h)(2) of title 38, United States Code, is amended by inserting "or" at the end of subparagraph (B), by striking "or" at the end of subparagraph (C) and inserting a period, and by striking subparagraph (D).

(b) CERTIFICATION OF ANTIBIOTICS.—

(1) AMENDMENT.—Section 507 (21 U.S.C. 357) is repealed.

(2) CONFORMING AMENDMENTS.—

(A) Section 201(aa) (21 U.S.C. 321(aa)) is amended by striking out "or 507", section 201(dd) (21 U.S.C. 321(dd)) is amended by striking "507," and section 201(ff)(3)(A) (21 U.S.C. 321(ff)(3)(A)) is amended by striking "certified as an antibiotic under section 507,".

(B) Section 301(e) (21 U.S.C. 331(e)) is amended by striking "507(d) or (g)".

(C) Section 306(d)(4)(B)(ii) (21 U.S.C. 335a(d)(4)(B)(ii)) is amended by striking "or 507,".

(D) Section 502 (21 U.S.C. 352) is amended by striking subsection (1).

(E) Section 520(1) (21 U.S.C. 360j(1)) is amended by striking paragraph (4) and by striking "or Antibiotic Drugs" in the subsection heading.

(F) Section 525(a) (21 U.S.C. 360aa(a)) is amended by inserting "or" at the end of paragraph (1), by striking paragraph (2), and by redesignating paragraph (3) as paragraph (2).

(G) Section 525(a) (21 U.S.C. 360aa(a)) is amended by striking "certification of such drug for such disease or condition under section 507,".

(H) Section 526(a)(1) (21 U.S.C. 360bb) is amended by striking "the submission of an application for certification of the drug under section 507," by inserting "or" at the end of subparagraph (A), by striking subparagraph (B), and by redesignating subparagraph (C) as subparagraph (B).

(I) Section 526(b) (21 U.S.C. 360bb(b)) is amended—

(i) in paragraph (1), by striking "a certificate was issued for the drug under section 507,"; and

(ii) in paragraph (2) by striking "a certificate has not been issued for the drug under section 507," and by striking "approval of an application for certification under section 507,".

(J) Section 527(a) (21 U.S.C. 360cc(a)) is amended by inserting "or" at the end of paragraph (1), by striking paragraph (2), by redesignating paragraph (3) as paragraph (2), and by striking "issue another certification under section 507,".

(K) Section 527(b) (21 U.S.C. 360cc(b)) is amended by striking "if a certification is issued under section 507 for such a drug," "of the issuance of the certification under section 507," "issue another certification under section 507," "of such certification," "of the certification," and "issuance of other certifications,".

(L) Section 704(a)(1) (21 U.S.C. 374(a)(1)) is amended by striking "section 507 (d) or (g)".

(M) Section 735(1) (21 U.S.C. 379g(1)(C)) is amended by inserting "or" at the end of subparagraph (B), by striking subparagraph (C), and by redesignating subparagraph (D) as subparagraph (C).

(N) Subparagraphs (A)(ii) and (B) of sections 5(b)(1) of the Orphan Drug Act (21 U.S.C. 360ee(b)(1)(A), 360ee(b)(1)(B)) are each amended by striking "or 507,".

(O) Section 45C(b)(2)(A)(ii)(I) of the Internal Revenue Code of 1986 is amended by striking "or 507,".

(P) Section 156(f)(4)(B) of title 35, United States Code, is amended by striking "507," each place it occurs.

(c) EXPORTATION.—Section 802 (21 U.S.C. 382) is amended by adding at the end the following: "(i) Insulin and antibiotic drugs may be exported without regard to the requirements in this section if the insulin and antibiotic drugs meet the requirements of section 801(e)(1)."

(d) TRANSITION.—

(1) IN GENERAL.—An application that was approved by the Secretary of Health and Human Services before the date of the enactment of this Act for the marketing of an antibiotic drug under section 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357), as in effect on the day before the date of the enactment of this Act, shall, on and after such date of enactment, be considered to be an application that was submitted and filed under section 505(b) of such Act (21 U.S.C. 355(b)) and approved for safety and effectiveness under section 505(c) of such Act (21 U.S.C. 355(c)), except that if such application for marketing was in the form of an abbreviated application, the application shall be considered to have been filed and approved under section 505(j) of such Act (21 U.S.C. 355(j)).

(2) EXCEPTION.—The following subsections of section 505 (21 U.S.C. 355) shall not apply to any application for marketing in which the drug that is the subject of the application contains an antibiotic drug and the antibiotic drug was the subject of any application for marketing received by the Secretary of Health and Human Services under section 507 of such Act (21 U.S.C. 357) before the date of the enactment of this Act:

(A)(i) Subsections (c)(2), (d)(6), (e)(4), (j)(2)(A)(vii), (j)(2)(A)(viii), (j)(2)(B), (j)(4)(B), and (j)(4)(D); and

(ii) The third and fourth sentences of subsection (b)(1) (regarding the filing and publication of patent information); and

(B) Subsections (b)(2)(A), (b)(2)(B), (b)(3), and (c)(3) if the investigations relied upon by the applicant for approval of the application were not conducted by or for the applicant and for which the applicant has not obtained a right of reference or use from the person by or for whom the investigations were conducted.

(3) PUBLICATION.—For purposes of this section, the Secretary is authorized to make available to the public the established name of each antibiotic drug that was the subject of any application for marketing received by the Secretary for Health and Human Services under section 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357) before the date of enactment of this Act.

(e) DEFINITION.—Section 201 (21 U.S.C. 321), as amended by section 121(a)(1), is further amended by adding at the end the following:

"(jj) The term 'antibiotic drug' means any drug (except drugs for use in animals other than humans) composed wholly or partly of any kind of penicillin, streptomycin, chlortetracycline, chloramphenicol, bacitracin, or any other drug intended for human use containing any quantity of any chemical substance which is produced by a micro-organism and which has the capacity to inhibit or destroy micro-organisms in dilute solution (including a chemically synthesized equivalent of any such substance) or any derivative thereof."

#### SEC. 126. ELIMINATION OF CERTAIN LABELING REQUIREMENTS.

(a) PRESCRIPTION DRUGS.—Section 503(b)(4) (21 U.S.C. 353(b)(4)) is amended to read as follows:

"(4)(A) A drug that is subject to paragraph (1) shall be deemed to be misbranded if at any time prior to dispensing the label of the drug fails to bear, at a minimum, the symbol 'Rx only'.

“(B) A drug to which paragraph (1) does not apply shall be deemed to be misbranded if at any time prior to dispensing the label of the drug bears the symbol described in subparagraph (A).”

(b) MISBRANDED DRUG.—Section 502(d) (21 U.S.C. 352(d)) is repealed.

(c) CONFORMING AMENDMENTS.—

(1) Section 503(b)(1) (21 U.S.C. 353(b)(1)) is amended—

(A) by striking subparagraph (A); and

(B) by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.

(2) Section 503(b)(3) (21 U.S.C. 353(b)(3)) is amended by striking “section 502(d) and”.

(3) Section 102(9)(A) of the Controlled Substances Act (21 U.S.C. 802(9)(A)) is amended—

(A) in clause (i), by striking “(i)”; and

(B) by striking “(ii)” and all that follows.

**SEC. 127. APPLICATION OF FEDERAL LAW TO PRACTICE OF PHARMACY COMPOUNDING.**

(a) AMENDMENT.—Chapter V is amended by inserting after section 503 (21 U.S.C. 353) the following:

**“SEC. 503A. PHARMACY COMPOUNDING.**

“(a) IN GENERAL.—Sections 501(a)(2)(B), 502(f)(1), and 505 shall not apply to a drug product if the drug product is compounded for an identified individual patient based on the unsolicited receipt of a valid prescription order or a notation, approved by the prescribing practitioner, on the prescription order that a compounded product is necessary for the identified patient, if the drug product meets the requirements of this section, and if the compounding—

“(1) is by—

“(A) a licensed pharmacist in a State licensed pharmacy or a Federal facility, or

“(B) a licensed physician, on the prescription order for such individual patient made by a licensed physician or other licensed practitioner authorized by State law to prescribe drugs; or

“(2)(A) is by a licensed pharmacist or licensed physician in limited quantities before the receipt of a valid prescription order for such individual patient; and

“(B) is based on a history of the licensed pharmacist or licensed physician receiving valid prescription orders for the compounding of the drug product, which orders have been generated solely within an established relationship between—

“(i) the licensed pharmacist or licensed physician; and

“(ii)(I) such individual patient for whom the prescription order will be provided; or

“(II) the physician or other licensed practitioner who will write such prescription order.

“(b) COMPOUNDED DRUG.—

“(1) LICENSED PHARMACIST AND LICENSED PHYSICIAN.—A drug product may be compounded under subsection (a) if the licensed pharmacist or licensed physician—

“(A) compounds the drug product using bulk drug substances, as defined in regulations of the Secretary published at section 207.3(a)(4) of title 21 of the Code of Federal Regulations—

“(i) that—

“(I) comply with the standards of an applicable United States Pharmacopoeia or National Formulary monograph, if a monograph exists, and the United States Pharmacopoeia chapter on pharmacy compounding;

“(II) if such a monograph does not exist, are drug substances that are components of drugs approved by the Secretary; or

“(III) if such a monograph does not exist and the drug substance is not a component of a drug approved by the Secretary, that appear on a list developed by the Secretary through regulations issued by the Secretary under subsection (d);

“(ii) that are manufactured by an establishment that is registered under section 510 (includ-

ing a foreign establishment that is registered under section 510(i)); and

“(iii) that are accompanied by valid certificates of analysis for each bulk drug substance;

“(B) compounds the drug product using ingredients (other than bulk drug substances) that comply with the standards of an applicable United States Pharmacopoeia or National Formulary monograph, if a monograph exists, and the United States Pharmacopoeia chapter on pharmacy compounding;

“(C) does not compound a drug product that appears on a list published by the Secretary in the Federal Register of drug products that have been withdrawn or removed from the market because such drug products or components of such drug products have been found to be unsafe or not effective; and

“(D) does not compound regularly or in inordinate amounts (as defined by the Secretary) any drug products that are essentially copies of a commercially available drug product.

“(2) DEFINITION.—For purposes of paragraph (1)(D), the term ‘essentially a copy of a commercially available drug product’ does not include a drug product in which there is a change, made for an identified individual patient, which produces for that patient a significant difference, as determined by the prescribing practitioner, between the compounded drug and the comparable commercially available drug product.

“(3) DRUG PRODUCT.—A drug product may be compounded under subsection (a) only if—

“(A) such drug product is not a drug product identified by the Secretary by regulation as a drug product that presents demonstrable difficulties for compounding that reasonably demonstrate an adverse effect on the safety or effectiveness of that drug product; and

“(B) such drug product is compounded in a State—

“(i) that has entered into a memorandum of understanding with the Secretary which addresses the distribution of inordinate amounts of compounded drug products interstate and provides for appropriate investigation by a State agency of complaints relating to compounded drug products distributed outside such State; or

“(ii) that has not entered into the memorandum of understanding described in clause (i) and the licensed pharmacist, licensed pharmacy, or licensed physician distributes (or causes to be distributed) compounded drug products out of the State in which they are compounded in quantities that do not exceed 5 percent of the total prescription orders dispensed or distributed by such pharmacy or physician.

The Secretary shall, in consultation with the National Association of Boards of Pharmacy, develop a standard memorandum of understanding for use by the States in complying with subparagraph (B)(i).

“(c) ADVERTISING AND PROMOTION.—A drug may be compounded under subsection (a) only if the pharmacy, licensed pharmacist, or licensed physician does not advertise or promote the compounding of any particular drug, class of drug, or type of drug. The pharmacy, licensed pharmacist, or licensed physician may advertise and promote the compounding service provided by the licensed pharmacist or licensed physician.

“(d) REGULATIONS.—

“(1) IN GENERAL.—The Secretary shall issue regulations to implement this section. Before issuing regulations to implement subsections (b)(1)(A)(i)(III), (b)(1)(C), or (b)(3)(A), the Secretary shall convene and consult an advisory committee on compounding unless the Secretary determines that the issuance of such regulations before consultation is necessary to protect the public health. The advisory committee shall include representatives from the National Association of Boards of Pharmacy, the United States

Pharmacopoeia, pharmacy, physician, and consumer organizations, and other experts selected by the Secretary.

“(2) LIMITING COMPOUNDING.—The Secretary, in consultation with the United States Pharmacopoeia Convention, Incorporated, shall promulgate regulations identifying drug substances that may be used in compounding under subsection (b)(1)(A)(i)(III) for which a monograph does not exist or which are not components of drug products approved by the Secretary. The Secretary shall include in the regulation the criteria for such substances, which shall include historical use, reports in peer reviewed medical literature, or other criteria the Secretary may identify.

“(e) APPLICATION.—This section shall not apply to—

“(1) compounded positron emission tomography drugs as defined in section 201(ii); or

“(2) radiopharmaceuticals.

“(f) DEFINITION.—As used in this section, the term ‘compounding’ does not include mixing, reconstituting, or other such acts that are performed in accordance with directions contained in approved labeling provided by the product’s manufacturer and other manufacturer directions consistent with that labeling.”

(b) EFFECTIVE DATE.—Section 503A of the Federal Food, Drug, and Cosmetic Act, added by subsection (a), shall take effect upon the expiration of the 1-year period beginning on the date of the enactment of this Act.

**SEC. 128. REAUTHORIZATION OF CLINICAL PHARMACOLOGY PROGRAM.**

Section 2 of Public Law 102-222 (105 Stat. 1677) is amended—

(1) in subsection (a), by striking “a grant” and all that follows through “Such grant” and inserting the following: “grants for a pilot program for the training of individuals in clinical pharmacology at appropriate medical schools. Such grants”; and

(2) in subsection (b), by striking “to carry out this section” and inserting “, and for fiscal years 1998 through 2002 \$3,000,000 for each fiscal year, to carry out this section”.

**SEC. 129. REGULATIONS FOR SUNSCREEN PRODUCTS.**

Not later than 18 months after the date of enactment of this Act, the Secretary of Health and Human Services shall issue regulations for over-the-counter sunscreen products for the prevention or treatment of sunburn.

**SEC. 130. REPORTS OF POSTMARKETING APPROVAL STUDIES.**

(a) IN GENERAL.—Chapter V, as amended by section 116, is further amended by inserting after section 506A the following:

**“SEC. 506B. REPORTS OF POSTMARKETING STUDIES.**

“(a) SUBMISSION.—

“(1) IN GENERAL.—A sponsor of a drug that has entered into an agreement with the Secretary to conduct a postmarketing study of a drug shall submit to the Secretary, within 1 year after the approval of such drug and annually thereafter until the study is completed or terminated, a report of the progress of the study or the reasons for the failure of the sponsor to conduct the study. The report shall be submitted in such form as is prescribed by the Secretary in regulations issued by the Secretary.

“(2) AGREEMENTS PRIOR TO EFFECTIVE DATE.—Any agreement entered into between the Secretary and a sponsor of a drug, prior to the date of enactment of the Food and Drug Administration Modernization Act of 1997, to conduct a postmarketing study of a drug shall be subject to the requirements of paragraph (1). An initial report for such an agreement shall be submitted within 6 months after the date of the issuance of the regulations under paragraph (1).

“(b) CONSIDERATION OF INFORMATION AS PUBLIC INFORMATION.—Any information pertaining

to a report described in subsection (a) shall be considered to be public information to the extent that the information is necessary—

"(1) to identify the sponsor; and  
 "(2) to establish the status of a study described in subsection (a) and the reasons, if any, for any failure to carry out the study.

"(c) STATUS OF STUDIES AND REPORTS.—The Secretary shall annually develop and publish in the Federal Register a report that provides information on the status of the postmarketing studies—

"(1) that sponsors have entered into agreements to conduct; and

"(2) for which reports have been submitted under subsection (a)(1)."

(b) REPORT TO CONGRESSIONAL COMMITTEES.—Not later than October 1, 2001, the Secretary shall prepare and submit to the Committee on Labor and Human Resources of the Senate and the Committee on Commerce of the House of Representatives a report containing—

(1) a summary of the reports submitted under section 506B of the Federal Food, Drug, and Cosmetic Act;

(2) an evaluation of—

(A) the performance of the sponsors referred to in such section in fulfilling the agreements with respect to the conduct of postmarketing studies described in such section of such Act; and

(B) the timeliness of the Secretary's review of the postmarketing studies; and

(3) any legislative recommendations respecting the postmarketing studies.

#### SEC. 131. NOTIFICATION OF DISCONTINUANCE OF A LIFE SAVING PRODUCT.

(a) IN GENERAL.—Chapter V, as amended by section 130, is further amended by inserting after section 506B the following:

#### "SEC. 506C. DISCONTINUANCE OF A LIFE SAVING PRODUCT.

"(a) IN GENERAL.—A manufacturer that is the sole manufacturer of a drug—

"(1) that is—

"(A) life-supporting;

"(B) life-sustaining; or

"(C) intended for use in the prevention of a debilitating disease or condition;

"(2) for which an application has been approved under section 505(b) or 505(j); and

"(3) that is not a product that was originally derived from human tissue and was replaced by a recombinant product, shall notify the Secretary of a discontinuance of the manufacture of the drug at least 6 months prior to the date of the discontinuance.

"(b) REDUCTION IN NOTIFICATION PERIOD.—The notification period required under subsection (a) for a manufacturer may be reduced if the manufacturer certifies to the Secretary that good cause exists for the reduction, such as a situation in which—

"(1) a public health problem may result from continuation of the manufacturing for the 6-month period;

"(2) a biomaterials shortage prevents the continuation of the manufacturing for the 6-month period;

"(3) a liability problem may exist for the manufacturer if the manufacturing is continued for the 6-month period;

"(4) continuation of the manufacturing for the 6-month period may cause substantial economic hardship for the manufacturer;

"(5) the manufacturer has filed for bankruptcy under chapter 7 or 11 of title 11, United States Code; or

"(6) the manufacturer can continue the distribution of the drug involved for 6 months.

"(c) DISTRIBUTION.—To the maximum extent practicable, the Secretary shall distribute information on the discontinuation of the drugs described in subsection (a) to appropriate physician and patient organizations."

## TITLE II—IMPROVING REGULATION OF DEVICES

### SEC. 201. INVESTIGATIONAL DEVICE EXEMPTIONS.

(a) IN GENERAL.—Section 520(g) (21 U.S.C. 360j(g)) is amended by adding at the end the following:

"(6)(A) Not later than 1 year after the date of the enactment of the Food and Drug Administration Modernization Act of 1997, the Secretary shall by regulation establish, with respect to a device for which an exemption under this subsection is in effect, procedures and conditions that, without requiring an additional approval of an application for an exemption or the approval of a supplement to such an application, permit—

"(i) developmental changes in the device (including manufacturing changes) that do not constitute a significant change in design or in basic principles of operation and that are made in response to information gathered during the course of an investigation; and

"(ii) changes or modifications to clinical protocols that do not affect—

"(I) the validity of data or information resulting from the completion of an approved protocol, or the relationship of likely patient risk to benefit relied upon to approve a protocol;

"(II) the scientific soundness of an investigational plan submitted under paragraph (3)(A); or

"(III) the rights, safety, or welfare of the human subjects involved in the investigation.

"(B) Regulations under subparagraph (A) shall provide that a change or modification described in such subparagraph may be made if—

"(i) the sponsor of the investigation determines, on the basis of credible information (as defined by the Secretary) that the applicable conditions under subparagraph (A) are met; and

"(ii) the sponsor submits to the Secretary, not later than 5 days after making the change or modification, a notice of the change or modification.

"(7)(A) In the case of a person intending to investigate the safety or effectiveness of a class III device or any implantable device, the Secretary shall ensure that the person has an opportunity, prior to submitting an application to the Secretary or to an institutional review committee, to submit to the Secretary, for review, an investigational plan (including a clinical protocol). If the applicant submits a written request for a meeting with the Secretary regarding such review, the Secretary shall, not later than 30 days after receiving the request, meet with the applicant for the purpose of reaching agreement regarding the investigational plan (including a clinical protocol). The written request shall include a detailed description of the device, a detailed description of the proposed conditions of use of the device, a proposed plan (including a clinical protocol) for determining whether there is a reasonable assurance of effectiveness, and, if available, information regarding the expected performance from the device.

"(B) Any agreement regarding the parameters of an investigational plan (including a clinical protocol) that is reached between the Secretary and a sponsor or applicant shall be reduced to writing and made part of the administrative record by the Secretary. Any such agreement shall not be changed, except—

"(i) with the written agreement of the sponsor or applicant; or

"(ii) pursuant to a decision, made in accordance with subparagraph (C) by the director of the office in which the device involved is reviewed, that a substantial scientific issue essential to determining the safety or effectiveness of the device involved has been identified.

"(C) A decision under subparagraph (B)(ii) by the director shall be in writing, and may be

made only after the Secretary has provided to the sponsor or applicant an opportunity for a meeting at which the director and the sponsor or applicant are present and at which the director documents the scientific issue involved."

(b) ACTION ON APPLICATION.—Section 515(d)(1)(B) (21 U.S.C. 360e(d)(1)(B)) is amended by adding at the end the following:

"(iii) The Secretary shall accept and review statistically valid and reliable data and any other information from investigations conducted under the authority of regulations required by section 520(g) to make a determination of whether there is a reasonable assurance of safety and effectiveness of a device subject to a pending application under this section if—

"(I) the data or information is derived from investigations of an earlier version of the device, the device has been modified during or after the investigations (but prior to submission of an application under subsection (c)) and such a modification of the device does not constitute a significant change in the design or in the basic principles of operation of the device that would invalidate the data or information; or

"(II) the data or information relates to a device approved under this section, is available for use under this Act, and is relevant to the design and intended use of the device for which the application is pending."

### SEC. 202. SPECIAL REVIEW FOR CERTAIN DEVICES.

Section 515(d) (21 U.S.C. 360e(d)) is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by adding at the end the following:

"(5) In order to provide for more effective treatment or diagnosis of life-threatening or irreversibly debilitating human diseases or conditions, the Secretary shall provide review priority for devices—

"(A) representing breakthrough technologies,

"(B) for which no approved alternatives exist,

"(C) which offer significant advantages over existing approved alternatives, or

"(D) the availability of which is in the best interest of the patients."

### SEC. 203. EXPANDING HUMANITARIAN USE OF DEVICES.

Section 520(m) (21 U.S.C. 360j(m)) is amended—

(1) in paragraph (2), by adding after and below subparagraph (C) the following sentences:

"The request shall be in the form of an application submitted to the Secretary. Not later than 75 days after the date of the receipt of the application, the Secretary shall issue an order approving or denying the application."

(2) in paragraph (4)—

(A) in subparagraph (B), by inserting after "(2)(A)" the following: ", unless a physician determines in an emergency situation that approval from a local institutional review committee can not be obtained in time to prevent serious harm or death to a patient"; and

(B) by adding after and below subparagraph (B) the following:

"In a case described in subparagraph (B) in which a physician uses a device without an approval from an institutional review committee, the physician shall, after the use of the device, notify the chairperson of the local institutional review committee of such use. Such notification shall include the identification of the patient involved, the date on which the device was used, and the reason for the use."

(3) by amending paragraph (5) to read as follows:

"(5) The Secretary may require a person granted an exemption under paragraph (2) to demonstrate continued compliance with the requirements of this subsection if the Secretary believes such demonstration to be necessary to protect the public health or if the Secretary has

reason to believe that the criteria for the exemption are no longer met."; and

(4) by amending paragraph (6) to read as follows:

"(6) The Secretary may suspend or withdraw an exemption from the effectiveness requirements of sections 514 and 515 for a humanitarian device only after providing notice and an opportunity for an informal hearing."

#### SEC. 204. DEVICE STANDARDS.

(a) ALTERNATIVE PROCEDURE.—Section 514 (21 U.S.C. 360d) is amended by adding at the end the following:

##### "Recognition of a Standard

"(c)(1)(A) In addition to establishing a performance standard under this section, the Secretary shall, by publication in the Federal Register, recognize all or part of an appropriate standard established by a nationally or internationally recognized standard development organization for which a person may submit a declaration of conformity in order to meet a premarket submission requirement or other requirement under this Act to which such standard is applicable.

"(B) If a person elects to use a standard recognized by the Secretary under subparagraph (A) to meet the requirements described in such subparagraph, the person shall provide a declaration of conformity to the Secretary that certifies that the device is in conformity with such standard. A person may elect to use data, or information, other than data required by a standard recognized under subparagraph (A) to meet any requirement regarding devices under this Act.

"(2) The Secretary may withdraw such recognition of a standard through publication of a notice in the Federal Register if the Secretary determines that the standard is no longer appropriate for meeting a requirement regarding devices under this Act.

"(3)(A) Subject to subparagraph (B), the Secretary shall accept a declaration of conformity that a device is in conformity with a standard recognized under paragraph (1) unless the Secretary finds—

"(i) that the data or information submitted to support such declaration does not demonstrate that the device is in conformity with the standard identified in the declaration of conformity; or

"(ii) that the standard identified in the declaration of conformity is not applicable to the particular device under review.

"(B) The Secretary may request, at any time, the data or information relied on by the person to make a declaration of conformity with respect to a standard recognized under paragraph (1).

"(C) A person making a declaration of conformity with respect to a standard recognized under paragraph (1) shall maintain the data and information demonstrating conformity of the device to the standard for a period of two years after the date of the classification or approval of the device by the Secretary or a period equal to the expected design life of the device, whichever is longer."

(b) SECTION 301.—Section 301 (21 U.S.C. 331) is amended by adding at the end the following:

"(x) The falsification of a declaration of conformity submitted under section 514(c) or the failure or refusal to provide data or information requested by the Secretary under paragraph (3) of such section."

(c) SECTION 501.—Section 501(e) (21 U.S.C. 351(e)) is amended—

(1) by striking "(e)" and inserting "(e)(1)"; and

(2) by inserting at the end the following:

"(2) If it is declared to be, purports to be, or is represented as, a device that is in conformity with any standard recognized under section 514(c) unless such device is in all respects in conformity with such standard."

(d) CONFORMING AMENDMENTS.—Section 514(a) (21 U.S.C. 360d(a)) is amended—

(1) in paragraph (1), in the second sentence, by striking "under this section" and inserting "under subsection (b)";

(2) in paragraph (2), in the matter preceding subparagraph (A), by striking "under this section" and inserting "under subsection (b)";

(3) in paragraph (3), by striking "under this section" and inserting "under subsection (b)"; and

(4) in paragraph (4), in the matter preceding subparagraph (A), by striking "this section" and inserting "this subsection and subsection (b)".

#### SEC. 205. SCOPE OF REVIEW; COLLABORATIVE DETERMINATIONS OF DEVICE DATA REQUIREMENTS.

(a) SECTION 513(a).—Section 513(a)(3) (21 U.S.C. 360c(a)(3)) is amended by adding at the end the following:

"(C) In making a determination of a reasonable assurance of the effectiveness of a device for which an application under section 515 has been submitted, the Secretary shall consider whether the extent of data that otherwise would be required for approval of the application with respect to effectiveness can be reduced through reliance on postmarket controls.

"(D)(i) The Secretary, upon the written request of any person intending to submit an application under section 515, shall meet with such person to determine the type of valid scientific evidence (within the meaning of subparagraphs (A) and (B)) that will be necessary to demonstrate for purposes of approval of an application the effectiveness of a device for the conditions of use proposed by such person. The written request shall include a detailed description of the device, a detailed description of the proposed conditions of use of the device, a proposed plan for determining whether there is a reasonable assurance of effectiveness, and, if available, information regarding the expected performance from the device. Within 30 days after such meeting, the Secretary shall specify in writing the type of valid scientific evidence that will provide a reasonable assurance that a device is effective under the conditions of use proposed by such person.

"(ii) Any clinical data, including one or more well-controlled investigations, specified in writing by the Secretary for demonstrating a reasonable assurance of device effectiveness shall be specified as result of a determination by the Secretary that such data are necessary to establish device effectiveness. The Secretary shall consider, in consultation with the applicant, the least burdensome appropriate means of evaluating device effectiveness that would have a reasonable likelihood of resulting in approval.

"(iii) The determination of the Secretary with respect to the specification of valid scientific evidence under clauses (i) and (ii) shall be binding upon the Secretary, unless such determination by the Secretary could be contrary to the public health."

(b) SECTION 513(i).—Section 513(i)(1) (21 U.S.C. 360c(i)(1)) is amended by adding at the end the following:

"(C) To facilitate reviews of reports submitted to the Secretary under section 510(k), the Secretary shall consider the extent to which reliance on postmarket controls may expedite the classification of devices under subsection (f)(1) of this section.

"(D) Whenever the Secretary requests information to demonstrate that devices with differing technological characteristics are substantially equivalent, the Secretary shall only request information that is necessary to making substantial equivalence determinations. In making such request, the Secretary shall consider the least burdensome means of demonstrating

substantial equivalence and request information accordingly.

"(E)(i) Any determination by the Secretary of the intended use of a device shall be based upon the proposed labeling submitted in a report for the device under section 510(k). However, when determining that a device can be found substantially equivalent to a legally marketed device, the director of the organizational unit responsible for regulating devices (in this subparagraph referred to as the 'Director') may require a statement in labeling that provides appropriate information regarding a use of the device not identified in the proposed labeling if, after providing an opportunity for consultation with the person who submitted such report, the Director determines and states in writing—

"(I) that there is a reasonable likelihood that the device will be used for an intended use not identified in the proposed labeling for the device; and

"(II) that such use could cause harm.

"(ii) Such determination shall—

"(I) be provided to the person who submitted the report within 10 days from the date of the notification of the Director's concerns regarding the proposed labeling;

"(II) specify the limitations on the use of the device not included in the proposed labeling; and

"(III) find the device substantially equivalent if the requirements of subparagraph (A) are met and if the labeling for such device conforms to the limitations specified in subclause (II).

"(iii) The responsibilities of the Director under this subparagraph may not be delegated.

"(iv) This subparagraph has no legal effect after the expiration of the five-year period beginning on the date of the enactment of the Food and Drug Administration Modernization Act of 1997."

(c) SECTION 515(d).—Section 515(d) (21 U.S.C. 360e(d)) is amended—

(1) in paragraph (1)(A), by adding after and below clause (ii) the following:

"In making the determination whether to approve or deny the application, the Secretary shall rely on the conditions of use included in the proposed labeling as the basis for determining whether or not there is a reasonable assurance of safety and effectiveness, if the proposed labeling is neither false nor misleading. In determining whether or not such labeling is false or misleading, the Secretary shall fairly evaluate all material facts pertinent to the proposed labeling."; and

(2) by adding after paragraph (5) (as added by section 202(2)) the following:

"(6)(A)(i) A supplemental application shall be required for any change to a device subject to an approved application under this subsection that affects safety or effectiveness, unless such change is a modification in a manufacturing procedure or method of manufacturing and the holder of the approved application submits a written notice to the Secretary that describes in detail the change, summarizes the data or information supporting the change, and informs the Secretary that the change has been made under the requirements of section 520(f).

"(ii) The holder of an approved application who submits a notice under clause (i) with respect to a manufacturing change of a device may distribute the device 30 days after the date on which the Secretary receives the notice, unless the Secretary within such 30-day period notifies the holder that the notice is not adequate and describes such further information or action that is required for acceptance of such change. If the Secretary notifies the holder that a supplemental application is required, the Secretary shall review the supplement within 135 days after the receipt of the supplement. The time used by the Secretary to review the notice of the

manufacturing change shall be deducted from the 135-day review period if the notice meets appropriate content requirements for premarket approval supplements.

"(B)(i) Subject to clause (ii), in reviewing a supplement to an approved application, for an incremental change to the design of a device that affects safety or effectiveness, the Secretary shall approve such supplement if—

"(I) nonclinical data demonstrate that the design modification creates the intended additional capacity, function, or performance of the device; and

"(II) clinical data from the approved application and any supplement to the approved application provide a reasonable assurance of safety and effectiveness for the changed device.

"(ii) The Secretary may require, when necessary, additional clinical data to evaluate the design modification of the device to provide a reasonable assurance of safety and effectiveness."

#### SEC. 206. PREMARKET NOTIFICATION.

(a) SECTION 510.—Section 510 (21 U.S.C. 360) is amended—

(1) in subsection (k), in the matter preceding paragraph (1), by adding after "report to the Secretary" the following: "or person who is accredited under section 523(a)"; and

(2) by adding at the end the following subsections:

"(l) A report under subsection (k) is not required for a device intended for human use that is exempted from the requirements of this subsection under subsection (m) or is within a type that has been classified into class I under section 513. The exception established in the preceding sentence does not apply to any class I device that is intended for a use which is of substantial importance in preventing impairment of human health, or to any class I device that presents a potential unreasonable risk of illness or injury.

"(m)(1) Not later than 60 days after the date of enactment of the Food and Drug Administration Modernization Act of 1997, the Secretary shall publish in the Federal Register a list of each type of class II device that does not require a report under subsection (k) to provide reasonable assurance of safety and effectiveness. Each type of class II device identified by the Secretary as not requiring the report shall be exempted from the requirement to provide a report under subsection (k) as of the date of the publication of the list in the Federal Register.

"(2) Beginning on the date that is 1 day after the date of the publication of a list under this subsection, the Secretary may exempt a class II device from the requirement to submit a report under subsection (k), upon the Secretary's own initiative or a petition of an interested person, if the Secretary determines that such report is not necessary to assure the safety and effectiveness of the device. The Secretary shall publish in the Federal Register notice of the intent of the Secretary to exempt the device, or of the petition, and provide a 30-day period for public comment. Within 120 days after the issuance of the notice in the Federal Register, the Secretary shall publish an order in the Federal Register that sets forth the final determination of the Secretary regarding the exemption of the device that was the subject of the notice. If the Secretary fails to respond to a petition within 180 days of receiving it, the petition shall be deemed to be granted."

(b) SECTION 513(f).—Section 513(f) (21 U.S.C. 360c(f)) is amended by adding at the end the following:

"(5) The Secretary may not withhold a determination of the initial classification of a device under paragraph (1) because of a failure to comply with any provision of this Act unrelated to a substantial equivalence decision, including a

finding that the facility in which the device is manufactured is not in compliance with good manufacturing requirements as set forth in regulations of the Secretary under section 520(f) (other than a finding that there is a substantial likelihood that the failure to comply with such regulations will potentially present a serious risk to human health)."

(c) SECTION 513(i).—Section 513(i)(1) (21 U.S.C. 360c(i)), as amended by section 205(b), is amended—

(1) in subparagraph (A)(ii)—

(A) in subclause (I), by striking "clinical data" and inserting "appropriate clinical or scientific data" and by inserting "or a person accredited under section 523" after "Secretary"; and

(B) in subclause (II), by striking "efficacy" and inserting "effectiveness"; and

(2) by adding at the end the following:

"(F) Not later than 270 days after the date of the enactment of the Food and Drug Administration Modernization Act of 1997, the Secretary shall issue guidance specifying the general principles that the Secretary will consider in determining when a specific intended use of a device is not reasonably included within a general use of such device for purposes of a determination of substantial equivalence under subsection (f) or section 520(l)."

#### SEC. 207. EVALUATION OF AUTOMATIC CLASS III DESIGNATION.

Section 513(f) (21 U.S.C. 360c(f)), as amended by section 206(b), is amended—

(1) in paragraph (1)—

(A) in subparagraph (B), by striking "paragraph (2)" and inserting "paragraph (3)"; and

(B) in the last sentence, by striking "paragraph (2)" and inserting "paragraph (2) or (3)";

(2) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(3) by inserting after paragraph (1) the following:

"(2)(A) Any person who submits a report under section 510(k) for a type of device that has not been previously classified under this Act, and that is classified into class III under paragraph (1), may request, within 30 days after receiving written notice of such a classification, the Secretary to classify the device under the criteria set forth in subparagraphs (A) through (C) of subsection (a)(1). The person may, in the request, recommend to the Secretary a classification for the device. Any such request shall describe the device and provide detailed information and reasons for the recommended classification.

"(B)(i) Not later than 60 days after the date of the submission of the request under subparagraph (A), the Secretary shall by written order classify the device involved. Such classification shall be the initial classification of the device for purposes of paragraph (1) and any device classified under this paragraph shall be a predicate device for determining substantial equivalence under paragraph (1).

"(ii) A device that remains in class III under this subparagraph shall be deemed to be adulterated within the meaning of section 501(f)(1)(B) until approved under section 515 or exempted from such approval under section 520(g).

"(C) Within 30 days after the issuance of an order classifying a device under this paragraph, the Secretary shall publish a notice in the Federal Register announcing such classification."

#### SEC. 208. CLASSIFICATION PANELS.

Section 513(b) (21 U.S.C. 360c(b)) is amended by adding at the end the following:

"(5) Classification panels covering each type of device shall be scheduled to meet at such times as may be appropriate for the Secretary to meet applicable statutory deadlines.

"(6)(A) Any person whose device is specifically the subject of review by a classification panel shall have—

"(i) the same access to data and information submitted to a classification panel (except for data and information that are not available for public disclosure under section 552 of title 5, United States Code) as the Secretary;

"(ii) the opportunity to submit, for review by a classification panel, information that is based on the data or information provided in the application submitted under section 515 by the person, which information shall be submitted to the Secretary for prompt transmittal to the classification panel; and

"(iii) the same opportunity as the Secretary to participate in meetings of the panel.

"(B) Any meetings of a classification panel shall provide adequate time for initial presentations and for response to any differing views by persons whose devices are specifically the subject of a classification panel review, and shall encourage free and open participation by all interested persons.

"(7) After receiving from a classification panel the conclusions and recommendations of the panel on a matter that the panel has reviewed, the Secretary shall review the conclusions and recommendations, shall make a final decision on the matter in accordance with section 515(d)(2), and shall notify the affected persons of the decision in writing and, if the decision differs from the conclusions and recommendations of the panel, shall include the reasons for the difference.

"(8) A classification panel under this subsection shall not be subject to the annual chartering and annual report requirements of the Federal Advisory Committee Act."

#### SEC. 209. CERTAINTY OF REVIEW TIMEFRAMES; COLLABORATIVE REVIEW PROCESS.

(a) CERTAINTY OF REVIEW TIMEFRAMES.—Section 510 (21 U.S.C. 360), as amended by section 206(a)(2), is amended by adding at the end the following subsection:

"(n) The Secretary shall review the report required in subsection (k) and make a determination under section 513(f)(1) not later than 90 days after receiving the report."

(b) COLLABORATIVE REVIEW PROCESS.—Section 515(d) (21 U.S.C. 360e(d)), as amended by section 202(1), is amended by inserting after paragraph (2) the following:

"(3)(A)(i) The Secretary shall, upon the written request of an applicant, meet with the applicant, not later than 100 days after the receipt of an application that has been filed as complete under subsection (c), to discuss the review status of the application.

"(ii) The Secretary shall, in writing and prior to the meeting, provide to the applicant a description of any deficiencies in the application that, at that point, have been identified by the Secretary based on an interim review of the entire application and identify the information that is required to correct those deficiencies.

"(iii) The Secretary shall notify the applicant promptly of—

"(I) any additional deficiency identified in the application, or

"(II) any additional information required to achieve completion of the review and final action on the application, that was not described as a deficiency in the written description provided by the Secretary under clause (ii).

"(B) The Secretary and the applicant may, by mutual consent, establish a different schedule for a meeting required under this paragraph.

#### SEC. 210. ACCREDITATION OF PERSONS FOR REVIEW OF PREMARKET NOTIFICATION REPORTS.

(a) IN GENERAL.—Subchapter A of chapter V is amended by adding at the end the following: "SEC. 523. ACCREDITED PERSONS.

"(a) IN GENERAL.—

"(1) REVIEW AND CLASSIFICATION OF DEVICES.—Not later than 1 year after the date of

the enactment of the Food and Drug Administration Modernization Act of 1997, the Secretary shall, subject to paragraph (3), accredit persons for the purpose of reviewing reports submitted under section 510(k) and making recommendations to the Secretary regarding the initial classification of devices under section 513(f)(1).

**"(2) REQUIREMENTS REGARDING REVIEW.—**

**"(A) IN GENERAL.—**In making a recommendation to the Secretary under paragraph (1), an accredited person shall notify the Secretary in writing of the reasons for the recommendation.

**"(B) TIME PERIOD FOR REVIEW.—**Not later than 30 days after the date on which the Secretary is notified under subparagraph (A) by an accredited person with respect to a recommendation of an initial classification of a device, the Secretary shall make a determination with respect to the initial classification.

**"(C) SPECIAL RULE.—**The Secretary may change the initial classification under section 513(f)(1) that is recommended under paragraph (1) by an accredited person, and in such case shall provide to such person, and the person who submitted the report under section 510(k) for the device, a statement explaining in detail the reasons for the change.

**"(3) CERTAIN DEVICES.—**

**"(A) IN GENERAL.—**An accredited person may not be used to perform a review of—

**"(i)** a class III device;

**"(ii)** a class II device which is intended to be permanently implantable or life sustaining or life supporting; or

**"(iii)** a class II device which requires clinical data in the report submitted under section 510(k) for the device, except that the number of class II devices to which the Secretary applies this clause for a year, less the number of such reports to which clauses (i) and (ii) apply, may not exceed 6 percent of the number that is equal to the total number of reports submitted to the Secretary under such section for such year less the number of such reports to which such clauses apply for such year.

**"(B) ADJUSTMENT.—**In determining for a year the ratio described in subparagraph (A)(iii), the Secretary shall not include in the numerator class III devices that the Secretary reclassified into class II, and the Secretary shall include in the denominator class II devices for which reports under section 510(k) were not required to be submitted by reason of the operation of section 510(m).

**"(b) ACCREDITATION.—**

**"(1) PROGRAMS.—**The Secretary shall provide for such accreditation through programs administered by the Food and Drug Administration, other government agencies, or by other qualified nongovernment organizations.

**"(2) ACCREDITATION.—**

**"(A) IN GENERAL.—**Not later than 180 days after the date of the enactment of the Food and Drug Administration Modernization Act of 1997, the Secretary shall establish and publish in the Federal Register criteria to accredit or deny accreditation to persons who request to perform the duties specified in subsection (a). The Secretary shall respond to a request for accreditation within 60 days of the receipt of the request. The accreditation of such person shall specify the particular activities under subsection (a) for which such person is accredited.

**"(B) WITHDRAWAL OF ACCREDITATION.—**The Secretary may suspend or withdraw accreditation of any person accredited under this paragraph, after providing notice and an opportunity for an informal hearing, when such person is substantially not in compliance with the requirements of this section or poses a threat to public health or fails to act in a manner that is consistent with the purposes of this section.

**"(C) PERFORMANCE AUDITING.—**To ensure that persons accredited under this section will con-

tinue to meet the standards of accreditation, the Secretary shall—

**"(i)** make onsite visits on a periodic basis to each accredited person to audit the performance of such person; and

**"(ii)** take such additional measures as the Secretary determines to be appropriate.

**"(D) ANNUAL REPORT.—**The Secretary shall include in the annual report required under section 903(g) the names of all accredited persons and the particular activities under subsection (a) for which each such person is accredited and the name of each accredited person whose accreditation has been withdrawn during the year.

**"(3) QUALIFICATIONS.—**An accredited person shall, at a minimum, meet the following requirements:

**"(A)** Such person may not be an employee of the Federal Government.

**"(B)** Such person shall be an independent organization which is not owned or controlled by a manufacturer, supplier, or vendor of devices and which has no organizational, material, or financial affiliation with such a manufacturer, supplier, or vendor.

**"(C)** Such person shall be a legally constituted entity permitted to conduct the activities for which it seeks accreditation.

**"(D)** Such person shall not engage in the design, manufacture, promotion, or sale of devices.

**"(E)** The operations of such person shall be in accordance with generally accepted professional and ethical business practices and shall agree in writing that as a minimum it will—

**"(i)** certify that reported information accurately reflects data reviewed;

**"(ii)** limit work to that for which competence and capacity are available;

**"(iii)** treat information received, records, reports, and recommendations as proprietary information;

**"(iv)** promptly respond and attempt to resolve complaints regarding its activities for which it is accredited; and

**"(v)** protect against the use, in carrying out subsection (a) with respect to a device, of any officer or employee of the person who has a financial conflict of interest regarding the device, and annually make available to the public disclosures of the extent to which the person, and the officers and employees of the person, have maintained compliance with requirements under this clause relating to financial conflicts of interest.

**"(4) SELECTION OF ACCREDITED PERSONS.—**The Secretary shall provide each person who chooses to use an accredited person to receive a section 510(k) report a panel of at least two or more accredited persons from which the regulated person may select one for a specific regulatory function.

**"(5) COMPENSATION OF ACCREDITED PERSONS.—**Compensation for an accredited person shall be determined by agreement between the accredited person and the person who engages the services of the accredited person, and shall be paid by the person who engages such services.

**"(c) DURATION.—**The authority provided by this section terminates—

**"(1)** 5 years after the date on which the Secretary notifies Congress that at least 2 persons accredited under subsection (b) are available to review at least 60 percent of the submissions under section 510(k), or

**"(2)** 4 years after the date on which the Secretary notifies Congress that the Secretary has made a determination described in paragraph (2)(B) of subsection (a) for at least 35 percent of the devices that are subject to review under paragraph (1) of such subsection, whichever occurs first."

**(b) RECORDKEEPING.—**Section 704 (21 U.S.C. 374) is amended by adding at the end the following:

**"(f)(1)** A person accredited under section 523 to review reports made under section 510(k) and make recommendations of initial classifications of devices to the Secretary shall maintain records documenting the training qualifications of the person and the employees of the person, the procedures used by the person for handling confidential information, the compensation arrangements made by the person, and the procedures used by the person to identify and avoid conflicts of interest. Upon the request of an officer or employee designated by the Secretary, the person shall permit the officer or employee, at all reasonable times, to have access to, to copy, and to verify, the records.

**"(2)** Within 15 days after the receipt of a written request from the Secretary to a person accredited under section 523 for copies of records described in paragraph (1), the person shall produce the copies of the records at the place designated by the Secretary."

**(c) CONFORMING AMENDMENT.—**Section 301 (21 U.S.C. 331), as amended by section 204(b), is amended by adding at the end the following:

**"(y)** In the case of a drug, device, or food—

**"(1)** the submission of a report or recommendation by a person accredited under section 523 that is false or misleading in any material respect;

**"(2)** the disclosure by a person accredited under section 523 of confidential commercial information or any trade secret without the express written consent of the person who submitted such information or secret to such person; or

**"(3)** the receipt by a person accredited under section 523 of a bribe in any form or the doing of any corrupt act by such person associated with a responsibility delegated to such person under this Act."

**(d) REPORTS ON PROGRAM OF ACCREDITATION.—**

**(1) COMPTROLLER GENERAL.—**

**(A) IMPLEMENTATION OF PROGRAM.—**Not later than 5 years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report describing the extent to which the program of accreditation required by the amendment made by subsection (a) has been implemented.

**(B) EVALUATION OF PROGRAM.—**Not later than 6 months prior to the date on which, pursuant to subsection (c) of section 523 of the Federal Food, Drug, and Cosmetic Act (as added by subsection (a)), the authority provided under subsection (a) of such section will terminate, the Comptroller General shall submit to the Committee on Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report describing the use of accredited persons under such section 523, including an evaluation of the extent to which such use assisted the Secretary in carrying out the duties of the Secretary under such Act with respect to devices, and the extent to which such use promoted actions which are contrary to the purposes of such Act.

**(2) INCLUSION OF CERTAIN DEVICES WITHIN PROGRAM.—**Not later than 3 years after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to the Committee on Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report providing a determination by the Secretary of whether, in the program of accreditation established pursuant to the amendment made by subsection (a), the limitation established in clause (iii) of section 523(a)(3)(A) of the Federal Food, Drug, and Cosmetic Act (relating to class II devices for which clinical data are required in reports under section 510(k)) should be removed.

**SEC. 211. DEVICE TRACKING.**

Effective 90 days after the date of the enactment of this Act, section 519(e) (21 U.S.C. 360i(e)) is amended to read as follows:

**“Device Tracking**

“(e)(1) The Secretary may by order require a manufacturer to adopt a method of tracking a class II or class III device—

“(A) the failure of which would be reasonably likely to have serious adverse health consequences; or

“(B) which is—

“(i) intended to be implanted in the human body for more than one year, or

“(ii) a life sustaining or life supporting device used outside a device user facility.

“(2) Any patient receiving a device subject to tracking under paragraph (1) may refuse to release, or refuse permission to release, the patient's name, address, social security number, or other identifying information for the purpose of tracking.”

**SEC. 212. POSTMARKET SURVEILLANCE.**

Effective 90 days after the date of the enactment of this Act, section 522 (21 U.S.C. 360l) is amended to read as follows:

**“POSTMARKET SURVEILLANCE**

“SEC. 522. (a) IN GENERAL.—The Secretary may by order require a manufacturer to conduct postmarket surveillance for any device of the manufacturer which is a class II or class III device the failure of which would be reasonably likely to have serious adverse health consequences or which is intended to be—

“(1) implanted in the human body for more than one year, or

“(2) a life sustaining or life supporting device used outside a device user facility.

“(b) SURVEILLANCE APPROVAL.—Each manufacturer required to conduct a surveillance of a device shall, within 30 days of receiving an order from the Secretary prescribing that the manufacturer is required under this section to conduct such surveillance, submit, for the approval of the Secretary, a plan for the required surveillance. The Secretary, within 60 days of the receipt of such plan, shall determine if the person designated to conduct the surveillance has appropriate qualifications and experience to undertake such surveillance and if the plan will result in the collection of useful data that can reveal unforeseen adverse events or other information necessary to protect the public health. The Secretary, in consultation with the manufacturer, may by order require a prospective surveillance period of up to 36 months. Any determination by the Secretary that a longer period is necessary shall be made by mutual agreement between the Secretary and the manufacturer or, if no agreement can be reached, after the completion of a dispute resolution process as described in section 562.”

**SEC. 213. REPORTS.**

(a) REPORTS.—Section 519 (21 U.S.C. 360i) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking “manufacturer, importer, or distributor” and inserting “manufacturer or importer”;

(B) in paragraph (4), by striking “manufacturer, importer, or distributor” and inserting “manufacturer or importer”;

(C) in paragraph (7), by adding “and” after the semicolon at the end;

(D) in paragraph (8)—

(i) by striking “manufacturer, importer, or distributor” each place such term appears and inserting “manufacturer or importer”; and

(ii) by striking the semicolon at the end and inserting a period;

(E) by striking paragraph (9); and

(F) by inserting at the end the following sentence: “The Secretary shall by regulation re-

quire distributors to keep records and make such records available to the Secretary upon request. Paragraphs (4) and (8) apply to distributors to the same extent and in the same manner as such paragraphs apply to manufacturers and importers.”;

(2) by striking subsection (d); and

(3) in subsection (f), by striking “, importer, or distributor” each place it appears and inserting “or importer”.

(b) REGISTRATION.—Section 510(g) (21 U.S.C. 360(g)) is amended—

(1) by redesignating paragraph (4) as paragraph (5);

(2) by inserting after paragraph (3) the following:

“(4) any distributor who acts as a wholesale distributor of devices, and who does not manufacture, repackage, process, or relabel a device; or”; and

(3) by adding at the end the following flush sentence:

“In this subsection, the term ‘wholesale distributor’ means any person (other than the manufacturer or the initial importer) who distributes a device from the original place of manufacture to the person who makes the final delivery or sale of the device to the ultimate consumer or user.”

(c) DEVICE USER FACILITIES.—

(1) IN GENERAL.—Section 519(b) (21 U.S.C. 360i(b)) is amended—

(A) in paragraph (1)(C)—

(i) in the first sentence, by striking “a semi-annual basis” and inserting “an annual basis”; (ii) in the second sentence, by striking “and July 1”; and

(iii) by striking the matter after and below clause (iv); and

(B) in paragraph (2)—

(i) in subparagraph (A), by inserting “or” after the comma at the end;

(ii) in subparagraph (B), by striking “, or” at the end and inserting a period; and

(iii) by striking subparagraph (C).

(2) SENTINEL SYSTEM.—Section 519(b) (21 U.S.C. 360i(b)) is amended—

(A) by redesignating paragraph (5) as paragraph (6); and

(B) by inserting after paragraph (4) the following paragraph:

“(5) With respect to device user facilities:

“(A) The Secretary shall by regulation plan and implement a program under which the Secretary limits user reporting under paragraphs (1) through (4) to a subset of user facilities that constitutes a representative profile of user reports for device deaths and serious illnesses or serious injuries.

“(B) During the period of planning the program under subparagraph (A), paragraphs (1) through (4) continue to apply.

“(C) During the period in which the Secretary is providing for a transition to the full implementation of the program, paragraphs (1) through (4) apply except to the extent that the Secretary determines otherwise.

“(D) On and after the date on which the program is fully implemented, paragraphs (1) through (4) do not apply to a user facility unless the facility is included in the subset referred to in subparagraph (A).

“(E) Not later than 2 years after the date of the enactment of the Food and Drug Administration Modernization Act of 1997, the Secretary shall submit to the Committee on Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the plan developed by the Secretary under subparagraph (A) and the progress that has been made toward the implementation of the plan.”

**SEC. 214. PRACTICE OF MEDICINE.**

Chapter IX is amended by adding at the end the following:

**“SEC. 906. PRACTICE OF MEDICINE.**

“Nothing in this Act shall be construed to limit or interfere with the authority of a health care practitioner to prescribe or administer any legally marketed device to a patient for any condition or disease within a legitimate health care practitioner-patient relationship. This section shall not limit any existing authority of the Secretary to establish and enforce restrictions on the sale or distribution, or in the labeling, of a device that are part of a determination of substantial equivalence, established as a condition of approval, or promulgated through regulations. Further, this section shall not change any existing prohibition on the promotion of unapproved uses of legally marketed devices.”

**SEC. 215. NONINVASIVE BLOOD GLUCOSE METER.**

(a) FINDINGS.—The Congress finds that—

(1) diabetes and its complications are a leading cause of death by disease in America;

(2) diabetes affects approximately 16,000,000 Americans and another 650,000 will be diagnosed in 1997;

(3) the total health care-related costs of diabetes total nearly \$100,000,000,000 per year;

(4) diabetes is a disease that is managed and controlled on a daily basis by the patient;

(5) the failure to properly control and manage diabetes results in costly and often fatal complications including but not limited to blindness, coronary artery disease, and kidney failure;

(6) blood testing devices are a critical tool for the control and management of diabetes, and existing blood testing devices require repeated piercing of the skin;

(7) the pain associated with existing blood testing devices creates a disincentive for people with diabetes to test blood glucose levels, particularly children;

(8) a safe and effective noninvasive blood glucose meter would likely improve control and management of diabetes by increasing the number of tests conducted by people with diabetes, particularly children; and

(9) the Food and Drug Administration is responsible for reviewing all applications for new medical devices in the United States.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the availability of a safe, effective, noninvasive blood glucose meter would greatly enhance the health and well-being of all people with diabetes across America and the world.

**SEC. 216. USE OF DATA RELATING TO PREMARKET APPROVAL; PRODUCT DEVELOPMENT PROTOCOL.**

(a) USE OF DATA RELATING TO PREMARKET APPROVAL.—

(1) IN GENERAL.—Section 520(h)(4) (21 U.S.C. 360j(h)(4)) is amended to read as follows:

“(4)(A) Any information contained in an application for premarket approval filed with the Secretary pursuant to section 515(c) (including information from clinical and preclinical tests or studies that demonstrate the safety and effectiveness of a device, but excluding descriptions of methods of manufacture and product composition and other trade secrets) shall be available, 6 years after the application has been approved by the Secretary, for use by the Secretary in—

“(i) approving another device;

“(ii) determining whether a product development protocol has been completed, under section 515 for another device;

“(iii) establishing a performance standard or special control under this Act; or

“(iv) classifying or reclassifying another device under section 513 and subsection (1)(2).

“(B) The publicly available detailed summaries of information respecting the safety and effectiveness of devices required by paragraph (1)(A) shall be available for use by the Secretary as the evidentiary basis for the agency actions described in subparagraph (A).”

(2) CONFORMING AMENDMENTS.—Section 517(a) (21 U.S.C. 360g(a)) is amended—

(A) in paragraph (8), by adding “or” at the end;

(B) in paragraph (9), by striking “, or” and inserting a comma; and

(C) by striking paragraph (10).

(b) PRODUCT DEVELOPMENT PROTOCOL.—Section 515(f)(2) (21 U.S.C. 360e(f)(2)) is amended by striking “he shall” and all that follows and inserting the following: “the Secretary—

“(A) may, at the initiative of the Secretary, refer the proposed protocol to the appropriate panel under section 513 for its recommendation respecting approval of the protocol; or

“(B) shall so refer such protocol upon the request of the submitter, unless the Secretary finds that the proposed protocol and accompanying data which would be reviewed by such panel substantially duplicate a product development protocol and accompanying data which have previously been reviewed by such a panel.”.

**SEC. 217. CLARIFICATION OF THE NUMBER OF REQUIRED CLINICAL INVESTIGATIONS FOR APPROVAL.**

Section 513(a)(3)(A) (21 U.S.C. 360c(a)(3)(A)) is amended by striking “clinical investigations” and inserting “1 or more clinical investigations”.

**TITLE III—IMPROVING REGULATION OF FOOD**

**SEC. 301. FLEXIBILITY FOR REGULATIONS REGARDING CLAIMS.**

Section 403(r) (21 U.S.C. 343(r)) is amended by adding at the end the following:

“(7) The Secretary may make proposed regulations issued under this paragraph effective upon publication pending consideration of public comment and publication of a final regulation if the Secretary determines that such action is necessary—

“(A) to enable the Secretary to review and act promptly on petitions the Secretary determines provide for information necessary to—

“(i) enable consumers to develop and maintain healthy dietary practices;

“(ii) enable consumers to be informed promptly and effectively of important new knowledge regarding nutritional and health benefits of food; or

“(iii) ensure that scientifically sound nutritional and health information is provided to consumers as soon as possible; or

“(B) to enable the Secretary to act promptly to ban or modify a claim under this paragraph.

Such proposed regulations shall be deemed final agency action for purposes of judicial review.”.

**SEC. 302. PETITIONS FOR CLAIMS.**

Section 403(r)(4)(A)(i) (21 U.S.C. 343(r)(4)(A)(i)) is amended—

(1) by adding after the second sentence the following: “If the Secretary does not act within such 100 days, the petition shall be deemed to be denied unless an extension is mutually agreed upon by the Secretary and the petitioner.”;

(2) in the fourth sentence (as amended by paragraph (1)) by inserting immediately before the comma the following: “or the petition is deemed to be denied”; and

(3) by adding at the end the following: “If the Secretary does not act within such 90 days, the petition shall be deemed to be denied unless an extension is mutually agreed upon by the Secretary and the petitioner. If the Secretary issues a proposed regulation, the rulemaking shall be completed within 540 days of the date the petition is received by the Secretary. If the Secretary does not issue a regulation within such 540 days, the Secretary shall provide the Committee on Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate the reasons action on

the regulation did not occur within such 540 days.”.

**SEC. 303. HEALTH CLAIMS FOR FOOD PRODUCTS.**

Section 403(r)(3) (21 U.S.C. 343(r)(3)) is amended by adding at the end thereof the following:

“(C) Notwithstanding the provisions of clauses (A)(i) and (B), a claim of the type described in subparagraph (1)(B) which is not authorized by the Secretary in a regulation promulgated in accordance with clause (B) shall be authorized and may be made with respect to a food if—

“(i) a scientific body of the United States Government with official responsibility for public health protection or research directly relating to human nutrition (such as the National Institutes of Health or the Centers for Disease Control and Prevention) or the National Academy of Sciences or any of its subdivisions has published an authoritative statement, which is currently in effect, about the relationship between a nutrient and a disease or health-related condition to which the claim refers;

“(ii) a person has submitted to the Secretary, at least 120 days (during which the Secretary may notify any person who is making a claim as authorized by clause (C) that such person has not submitted all the information required by such clause) before the first introduction into interstate commerce of the food with a label containing the claim, (I) a notice of the claim, which shall include the exact words used in the claim and shall include a concise description of the basis upon which such person relied for determining that the requirements of subclause (i) have been satisfied, (II) a copy of the statement referred to in subclause (i) upon which such person relied in making the claim, and (III) a balanced representation of the scientific literature relating to the relationship between a nutrient and a disease or health-related condition to which the claim refers;

“(iii) the claim and the food for which the claim is made are in compliance with clause (A)(ii) and are otherwise in compliance with paragraph (a) and section 201(n); and

“(iv) the claim is stated in a manner so that the claim is an accurate representation of the authoritative statement referred to in subclause (i) and so that the claim enables the public to comprehend the information provided in the claim and to understand the relative significance of such information in the context of a total daily diet.

For purposes of this clause, a statement shall be regarded as an authoritative statement of a scientific body described in subclause (i) only if the statement is published by the scientific body and shall not include a statement of an employee of the scientific body made in the individual capacity of the employee.

“(D) A claim submitted under the requirements of clause (C) may be made until—

“(i) such time as the Secretary issues a regulation under the standard in clause (B)(i)—

“(I) prohibiting or modifying the claim and the regulation has become effective, or

“(II) finding that the requirements of clause (C) have not been met, including finding that the petitioner has not submitted all the information required by such clause; or

“(ii) a district court of the United States in an enforcement proceeding under chapter III has determined that the requirements of clause (C) have not been met.”.

**SEC. 304. NUTRIENT CONTENT CLAIMS.**

Section 403(r)(2) (21 U.S.C. 343(r)(2)) is amended by adding at the end the following:

“(G) A claim of the type described in subparagraph (1)(A) for a nutrient, for which the Secretary has not promulgated a regulation under clause (A)(i), shall be authorized and may be made with respect to a food if—

“(i) a scientific body of the United States Government with official responsibility for public

health protection or research directly relating to human nutrition (such as the National Institutes of Health or the Centers for Disease Control and Prevention) or the National Academy of Sciences or any of its subdivisions has published an authoritative statement, which is currently in effect, which identifies the nutrient level to which the claim refers;

“(ii) a person has submitted to the Secretary, at least 120 days (during which the Secretary may notify any person who is making a claim as authorized by clause (C) that such person has not submitted all the information required by such clause) before the first introduction into interstate commerce of the food with a label containing the claim, (I) a notice of the claim, which shall include the exact words used in the claim and shall include a concise description of the basis upon which such person relied for determining that the requirements of subclause (i) have been satisfied, (II) a copy of the statement referred to in subclause (i) upon which such person relied in making the claim, and (III) a balanced representation of the scientific literature relating to the nutrient level to which the claim refers;

“(iii) the claim and the food for which the claim is made are in compliance with clauses (A) and (B), and are otherwise in compliance with paragraph (a) and section 201(n); and

“(iv) the claim is stated in a manner so that the claim is an accurate representation of the authoritative statement referred to in subclause (i) and so that the claim enables the public to comprehend the information provided in the claim and to understand the relative significance of such information in the context of a total daily diet.

For purposes of this clause, a statement shall be regarded as an authoritative statement of a scientific body described in subclause (i) only if the statement is published by the scientific body and shall not include a statement of an employee of the scientific body made in the individual capacity of the employee.

“(H) A claim submitted under the requirements of clause (G) may be made until—

“(i) such time as the Secretary issues a regulation—

“(I) prohibiting or modifying the claim and the regulation has become effective, or

“(II) finding that the requirements of clause (G) have not been met, including finding that the petitioner had not submitted all the information required by such clause; or

“(ii) a district court of the United States in an enforcement proceeding under chapter III has determined that the requirements of clause (G) have not been met.”.

**SEC. 305. REFERRAL STATEMENTS.**

Section 403(r)(2)(B) (21 U.S.C. 343(r)(2)(B)) is amended to read as follows:

“(B) If a claim described in subparagraph (1)(A) is made with respect to a nutrient in a food and the Secretary makes a determination that the food contains a nutrient at a level that increases to persons in the general population the risk of a disease or health-related condition that is diet related, the label or labeling of such food shall contain, prominently and in immediate proximity to such claim, the following statement: ‘See nutrition information for \_\_\_ content.’ The blank shall identify the nutrient associated with the increased disease or health-related condition risk. In making the determination described in this clause, the Secretary shall take into account the significance of the food in the total daily diet.”.

**SEC. 306. DISCLOSURE OF IRRADIATION.**

Chapter IV (21 U.S.C. 341 et seq.) is amended by inserting after section 403B the following:

**“DISCLOSURE**

“SEC. 403C. (a) No provision of section 201(n), 403(a), or 409 shall be construed to require on

the label or labeling of a food a separate radiation disclosure statement that is more prominent than the declaration of ingredients required by section 403(i)(2).

"(b) In this section, the term 'radiation disclosure statement' means a written statement that discloses that a food has been intentionally subject to radiation."

#### SEC. 307. IRRADIATION PETITION.

Not later than 60 days following the date of the enactment of this Act, the Secretary of Health and Human Services shall make a final determination on any petition pending with the Food and Drug Administration that would permit the irradiation of red meat under section 409(b)(1) of the Federal Food, Drug, and Cosmetic Act. If the Secretary does not make such determination, the Secretary shall, not later than 60 days following the date of the enactment of this Act, provide the Committee on Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate an explanation of the process followed by the Food and Drug Administration in reviewing the petition referred to in paragraph (1) and the reasons action on the petition was delayed.

#### SEC. 308. GLASS AND CERAMIC WARE.

(a) IN GENERAL.—The Secretary may not implement any requirement which would ban, as an unapproved food additive, lead and cadmium based enamel in the lip and rim area of glass and ceramic ware before the expiration of one year after the date such requirement is published.

(b) LEAD AND CADMIUM BASED ENAMEL.—Unless the Secretary determines, based on available data, that lead and cadmium based enamel on glass and ceramic ware—

(1) which has less than 60 millimeters of decorating area below the external rim, and

(2) which is not, by design, representation, or custom of usage intended for use by children, is unsafe, the Secretary shall not take any action before January 1, 2003, to ban lead and cadmium based enamel on such glass and ceramic ware. Any action taken after January 1, 2003, to ban such enamel on such glass and ceramic ware as an unapproved food additive shall be taken by regulation and such regulation shall provide that such products shall not be removed from the market before 1 year after publication of the final regulation.

#### SEC. 309. FOOD CONTACT SUBSTANCES.

(a) FOOD CONTACT SUBSTANCES.—Section 409(a) (21 U.S.C. 348(a)) is amended—

(1) in paragraph (1)—

(A) by striking "subsection (i)" and inserting "subsection (j)"; and

(B) by striking at the end "or";

(2) by striking the period at the end of paragraph (2) and inserting "; or";

(3) by inserting after paragraph (2) the following:

"(3) in the case of a food additive as defined in this Act that is a food contact substance, there is—

"(A) in effect, and such substance and the use of such substance are in conformity with, a regulation issued under this section prescribing the conditions under which such additive may be safely used; or

"(B) a notification submitted under subsection (h) that is effective.";

(4) by striking the matter following paragraph (3) (as added by paragraph (3)) and inserting the following flush sentence:

"While such a regulation relating to a food additive, or such a notification under subsection (h)(1) relating to a food additive that is a food contact substance, is in effect, and has not been revoked pursuant to subsection (i), a food shall not, by reason of bearing or containing such a

food additive in accordance with the regulation or notification, be considered adulterated under section 402(a)(1)."

(b) NOTIFICATION FOR FOOD CONTACT SUBSTANCES.—Section 409 (21 U.S.C. 348), as amended by subsection (a), is further amended—

(1) by redesignating subsections (h) and (i), as subsections (i) and (j), respectively;

(2) by inserting after subsection (g) the following:

#### "Notification Relating to a Food Contact Substance

"(h)(1) Subject to such regulations as may be promulgated under paragraph (3), a manufacturer or supplier of a food contact substance may, at least 120 days prior to the introduction or delivery for introduction into interstate commerce of the food contact substance, notify the Secretary of the identity and intended use of the food contact substance, and of the determination of the manufacturer or supplier that the intended use of such food contact substance is safe under the standard described in subsection (c)(3)(A). The notification shall contain the information that forms the basis of the determination and all information required to be submitted by regulations promulgated by the Secretary.

"(2)(A) A notification submitted under paragraph (1) shall become effective 120 days after the date of receipt by the Secretary and the food contact substance may be introduced or delivered for introduction into interstate commerce, unless the Secretary makes a determination within the 120-day period that, based on the data and information before the Secretary, such use of the food contact substance has not been shown to be safe under the standard described in subsection (c)(3)(A), and informs the manufacturer or supplier of such determination.

"(B) A decision by the Secretary to object to a notification shall constitute final agency action subject to judicial review.

"(C) In this paragraph, the term 'food contact substance' means the substance that is the subject of a notification submitted under paragraph (1), and does not include a similar or identical substance manufactured or prepared by a person other than the manufacturer identified in the notification.

"(3)(A) The process in this subsection shall be utilized for authorizing the marketing of a food contact substance except where the Secretary determines that submission and review of a petition under subsection (b) is necessary to provide adequate assurance of safety, or where the Secretary and any manufacturer or supplier agree that such manufacturer or supplier may submit a petition under subsection (b).

"(B) The Secretary is authorized to promulgate regulations to identify the circumstances in which a petition shall be filed under subsection (b), and shall consider criteria such as the probable consumption of such food contact substance and potential toxicity of the food contact substance in determining the circumstances in which a petition shall be filed under subsection (b).

"(4) The Secretary shall keep confidential any information provided in a notification under paragraph (1) for 120 days after receipt by the Secretary of the notification. After the expiration of such 120 days, the information shall be available to any interested party except for any matter in the notification that is a trade secret or confidential commercial information.

"(5)(A)(i) Except as provided in clause (ii), the notification program established under this subsection shall not operate in any fiscal year unless—

"(I) an appropriation equal to or exceeding the applicable amount under clause (iv) is made for such fiscal year for carrying out such program in such fiscal year; and

"(II) the Secretary certifies that the amount appropriated for such fiscal year for the Center for Food Safety and Applied Nutrition of the Food and Drug Administration (exclusive of the appropriation referred to in subclause (I)) equals or exceeds the amount appropriated for the Center for fiscal year 1997, excluding any amount appropriated for new programs.

"(ii) The Secretary shall, not later than April 1, 1999, begin accepting and reviewing notifications submitted under the notification program established under this subsection if—

"(I) an appropriation equal to or exceeding the applicable amount under clause (iii) is made for the last six months of fiscal year 1999 for carrying out such program during such period; and

"(II) the Secretary certifies that the amount appropriated for such period for the Center for Food Safety and Applied Nutrition of the Food and Drug Administration (exclusive of the appropriation referred to in subclause (I)) equals or exceeds an amount equivalent to one-half the amount appropriated for the Center for fiscal year 1997, excluding any amount appropriated for new programs.

"(iii) For the last six months of fiscal year 1999, the applicable amount under this clause is \$1,500,000, or the amount specified in the budget request of the President for the six-month period involved for carrying out the notification program in fiscal year 1999, whichever is less.

"(iv) For fiscal year 2000 and subsequent fiscal years, the applicable amount under this clause is \$3,000,000, or the amount specified in the budget request of the President for the fiscal year involved for carrying out the notification program under this subsection, whichever is less.

"(B) For purposes of carrying out the notification program under this subsection, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1999 through fiscal year 2003, except that such authorization of appropriations is not effective for a fiscal year for any amount that is less than the applicable amount under clause (iii) or (iv) of subparagraph (A), whichever is applicable.

"(C) Not later than April 1 of fiscal year 1998 and February 1 of each subsequent fiscal year, the Secretary shall submit a report to the Committees on Appropriations of the House of Representatives and the Senate, the Committee on Commerce of the House of Representatives, and the Committee on Labor and Human Resources of the Senate that provides an estimate of the Secretary of the costs of carrying out the notification program established under this subsection for the next fiscal year.

"(6) In this section, the term 'food contact substance' means any substance intended for use as a component of materials used in manufacturing, packing, packaging, transporting, or holding food if such use is not intended to have any technical effect in such food."

(3) in subsection (i), as so redesignated by paragraph (1), by adding at the end the following: "The Secretary shall by regulation prescribe the procedure by which the Secretary may deem a notification under subsection (h) no longer be effective."; and

(4) in subsection (j), as so redesignated by paragraph (1), by striking "subsections (b) to (h)" and inserting "subsections (b) to (i)".

#### TITLE IV—GENERAL PROVISIONS

##### SEC. 401. DISSEMINATION OF INFORMATION ON NEW USES.

(a) IN GENERAL.—Chapter V (21 U.S.C. 351 et seq.) is amended by inserting after subchapter C the following:

“SUBCHAPTER D—DISSEMINATION OF TREATMENT INFORMATION

“SEC. 551. REQUIREMENTS FOR DISSEMINATION OF TREATMENT INFORMATION ON DRUGS OR DEVICES.

“(a) IN GENERAL.—Notwithstanding sections 301(d), 502(f), and 505, and section 351 of the Public Health Service Act (42 U.S.C. 262), a manufacturer may disseminate to—

- “(1) a health care practitioner;
- “(2) a pharmacy benefit manager;
- “(3) a health insurance issuer;
- “(4) a group health plan; or
- “(5) a Federal or State governmental agency;

written information concerning the safety, effectiveness, or benefit of a use not described in the approved labeling of a drug or device if the manufacturer meets the requirements of subsection (b).

“(b) SPECIFIC REQUIREMENTS.—A manufacturer may disseminate information under subsection (a) on a new use only if—

“(1)(A) in the case of drug, there is in effect for the drug an application filed under subsection (b) or (j) of section 505 or a biologics license issued under section 351 of the Public Health Service Act; or

“(B) in the case of a device, the device is being commercially distributed in accordance with a regulation under subsection (d) or (e) of section 513, an order under subsection (f) of such section, or the approval of an application under section 515;

“(2) the information meets the requirements of section 552;

“(3) the information to be disseminated is not derived from clinical research conducted by another manufacturer or if it was derived from research conducted by another manufacturer, the manufacturer disseminating the information has the permission of such other manufacturer to make the dissemination;

“(4) the manufacturer has, 60 days before such dissemination, submitted to the Secretary—

“(A) a copy of the information to be disseminated; and

“(B) any clinical trial information the manufacturer has relating to the safety or effectiveness of the new use, any reports of clinical experience pertinent to the safety of the new use, and a summary of such information;

“(5) the manufacturer has complied with the requirements of section 554 (relating to a supplemental application for such use);

“(6) the manufacturer includes along with the information to be disseminated under this subsection—

“(A) a prominently displayed statement that discloses—

“(i) that the information concerns a use of a drug or device that has not been approved or cleared by the Food and Drug Administration;

“(ii) if applicable, that the information is being disseminated at the expense of the manufacturer;

“(iii) if applicable, the name of any authors of the information who are employees of, consultants to, or have received compensation from, the manufacturer, or who have a significant financial interest in the manufacturer;

“(iv) the official labeling for the drug or device and all updates with respect to the labeling;

“(v) if applicable, a statement that there are products or treatments that have been approved or cleared for the use that is the subject of the information being disseminated pursuant to subsection (a)(1); and

“(vi) the identification of any person that has provided funding for the conduct of a study relating to the new use of a drug or device for which such information is being disseminated; and

“(B) a bibliography of other articles from a scientific reference publication or scientific or

medical journal that have been previously published about the use of the drug or device covered by the information disseminated (unless the information already includes such bibliography).

“(c) ADDITIONAL INFORMATION.—If the Secretary determines, after providing notice of such determination and an opportunity for a meeting with respect to such determination, that the information submitted by a manufacturer under subsection (b)(3)(B), with respect to the use of a drug or device for which the manufacturer intends to disseminate information, fails to provide data, analyses, or other written matter that is objective and balanced, the Secretary may require the manufacturer to disseminate—

“(1) additional objective and scientifically sound information that pertains to the safety or effectiveness of the use and is necessary to provide objectivity and balance, including any information that the manufacturer has submitted to the Secretary or, where appropriate, a summary of such information or any other information that the Secretary has authority to make available to the public; and

“(2) an objective statement of the Secretary, based on data or other scientifically sound information available to the Secretary, that bears on the safety or effectiveness of the new use of the drug or device.

“SEC. 552. INFORMATION AUTHORIZED TO BE DISSEMINATED.

“(a) AUTHORIZED INFORMATION.—A manufacturer may disseminate information under section 551 on a new use only if the information—

“(1) is in the form of an unabridged—

“(A) reprint or copy of an article, peer-reviewed by experts qualified by scientific training or experience to evaluate the safety or effectiveness of the drug or device involved, which was published in a scientific or medical journal (as defined in section 556(5)), which is about a clinical investigation with respect to the drug or device, and which would be considered to be scientifically sound by such experts; or

“(B) reference publication, described in subsection (b), that includes information about a clinical investigation with respect to the drug or device that would be considered to be scientifically sound by experts qualified by scientific training or experience to evaluate the safety or effectiveness of the drug or device that is the subject of such a clinical investigation; and

“(2) is not false or misleading and would not pose a significant risk to the public health.

“(b) REFERENCE PUBLICATION.—A reference publication referred to in subsection (a)(1)(B) is a publication that—

“(1) has not been written, edited, excerpted, or published specifically for, or at the request of, a manufacturer of a drug or device;

“(2) has not been edited or significantly influenced by a such a manufacturer;

“(3) is not solely distributed through such a manufacturer but is generally available in bookstores or other distribution channels where medical textbooks are sold;

“(4) does not focus on any particular drug or device of a manufacturer that disseminates information under section 551 and does not have a primary focus on new uses of drugs or devices that are marketed or under investigation by a manufacturer supporting the dissemination of information; and

“(5) presents materials that are not false or misleading.

“SEC. 553. ESTABLISHMENT OF LIST OF ARTICLES AND PUBLICATIONS DISSEMINATED AND LIST OF PROVIDERS THAT RECEIVED ARTICLES AND REFERENCE PUBLICATIONS.

“(a) IN GENERAL.—A manufacturer may disseminate information under section 551 on a new use only if the manufacturer prepares and submits to the Secretary biannually—

“(1) a list containing the titles of the articles and reference publications relating to the new use of drugs or devices that were disseminated by the manufacturer to a person described in section 551(a) for the 6-month period preceding the date on which the manufacturer submits the list to the Secretary; and

“(2) a list that identifies the categories of providers (as described in section 551(a)) that received the articles and reference publications for the 6-month period described in paragraph (1).

“(b) RECORDS.—A manufacturer that disseminates information under section 551 shall keep records that may be used by the manufacturer when, pursuant to section 555, such manufacturer is required to take corrective action and shall be made available to the Secretary, upon request, for purposes of ensuring or taking corrective action pursuant to such section. Such records, at the Secretary's discretion, may identify the recipient of information provided pursuant to section 551 or the categories of such recipients.

“SEC. 554. REQUIREMENT REGARDING SUBMISSION OF SUPPLEMENTAL APPLICATION FOR NEW USE; EXEMPTION FROM REQUIREMENT.

“(a) IN GENERAL.—A manufacturer may disseminate information under section 551 on a new use only if—

“(1)(A) the manufacturer has submitted to the Secretary a supplemental application for such use; or

“(B) the manufacturer meets the condition described in subsection (b) or (c) (relating to a certification that the manufacturer will submit such an application); or

“(2) there is in effect for the manufacturer an exemption under subsection (d) from the requirement of paragraph (1).

“(b) CERTIFICATION ON SUPPLEMENTAL APPLICATION; CONDITION IN CASE OF COMPLETED STUDIES.—For purposes of subsection (a)(1)(B), a manufacturer may disseminate information on a new use if the manufacturer has submitted to the Secretary an application containing a certification that—

“(1) the studies needed for the submission of a supplemental application for the new use have been completed; and

“(2) the supplemental application will be submitted to the Secretary not later than 6 months after the date of the initial dissemination of information under section 551.

“(c) CERTIFICATION ON SUPPLEMENTAL APPLICATION; CONDITION IN CASE OF PLANNED STUDIES.—

“(1) IN GENERAL.—For purposes of subsection (a)(1)(B), a manufacturer may disseminate information on a new use if—

“(A) the manufacturer has submitted to the Secretary an application containing—

“(i) a proposed protocol and schedule for conducting the studies needed for the submission of a supplemental application for the new use; and

“(ii) a certification that the supplemental application will be submitted to the Secretary not later than 36 months after the date of the initial dissemination of information under section 551 (or, as applicable, not later than such date as the Secretary may specify pursuant to an extension under paragraph (3)); and

“(B) the Secretary has determined that the proposed protocol is adequate and that the schedule for completing such studies is reasonable.

“(2) PROGRESS REPORTS ON STUDIES.—A manufacturer that submits to the Secretary an application under paragraph (1) shall submit to the Secretary periodic reports describing the status of the studies involved.

“(3) EXTENSION OF TIME REGARDING PLANNED STUDIES.—The period of 36 months authorized in paragraph (1)(A)(ii) for the completion of studies may be extended by the Secretary if—

"(A) the Secretary determines that the studies needed to submit such an application cannot be completed and submitted within 36 months; or

"(B) the manufacturer involved submits to the Secretary a written request for the extension and the Secretary determines that the manufacturer has acted with due diligence to conduct the studies in a timely manner, except that an extension under this subparagraph may not be provided for more than 24 additional months.

"(d) EXEMPTION FROM REQUIREMENT OF SUPPLEMENTAL APPLICATION.—

"(1) IN GENERAL.—For purposes of subsection (a)(2), a manufacturer may disseminate information on a new use if—

"(A) the manufacturer has submitted to the Secretary an application for an exemption from meeting the requirement of subsection (a)(1); and

"(B)(i) the Secretary has approved the application in accordance with paragraph (2); or

"(ii) the application is deemed under paragraph (3)(A) to have been approved (unless such approval is terminated pursuant to paragraph (3)(B)).

"(2) CONDITIONS FOR APPROVAL.—The Secretary may approve an application under paragraph (1) for an exemption if the Secretary makes a determination described in subparagraph (A) or (B), as follows:

"(A) The Secretary makes a determination that, for reasons defined by the Secretary, it would be economically prohibitive with respect to such drug or device for the manufacturer to incur the costs necessary for the submission of a supplemental application. In making such determination, the Secretary shall consider (in addition to any other considerations the Secretary finds appropriate)—

"(i) the lack of the availability under law of any period during which the manufacturer would have exclusive marketing rights with respect to the new use involved; and

"(ii) the size of the population expected to benefit from approval of the supplemental application.

"(B) The Secretary makes a determination that, for reasons defined by the Secretary, it would be unethical to conduct the studies necessary for the supplemental application. In making such determination, the Secretary shall consider (in addition to any other considerations the Secretary finds appropriate) whether the new use involved is the standard of medical care for a health condition.

"(3) TIME FOR CONSIDERATION OF APPLICATION; DEEMED APPROVAL.—

"(A) IN GENERAL.—The Secretary shall approve or deny an application under paragraph (1) for an exemption not later than 60 days after the receipt of the application. If the Secretary does not comply with the preceding sentence, the application is deemed to be approved.

"(B) TERMINATION OF DEEMED APPROVAL.—If pursuant to a deemed approval under subparagraph (A) a manufacturer disseminates written information under section 551 on a new use, the Secretary may at any time terminate such approval and under section 555(b)(3) order the manufacturer to cease disseminating the information.

"(e) REQUIREMENTS REGARDING APPLICATIONS.—Applications under this section shall be submitted in the form and manner prescribed by the Secretary.

"SEC. 555. CORRECTIVE ACTIONS; CESSATION OF DISSEMINATION.

"(a) POSTDISSEMINATION DATA REGARDING SAFETY AND EFFECTIVENESS.—

"(1) CORRECTIVE ACTIONS.—With respect to data received by the Secretary after the dissemination of information under section 551 by a manufacturer has begun (whether received pursuant to paragraph (2) or otherwise), if the Sec-

retary determines that the data indicate that the new use involved may not be effective or may present a significant risk to public health, the Secretary shall, after consultation with the manufacturer, take such action regarding the dissemination of the information as the Secretary determines to be appropriate for the protection of the public health, which may include ordering that the manufacturer cease the dissemination of the information.

"(2) RESPONSIBILITIES OF MANUFACTURERS TO SUBMIT DATA.—After a manufacturer disseminates information under section 551, the manufacturer shall submit to the Secretary a notification of any additional knowledge of the manufacturer on clinical research or other data that relate to the safety or effectiveness of the new use involved. If the manufacturer is in possession of the data, the notification shall include the data. The Secretary shall by regulation establish the scope of the responsibilities of manufacturers under this paragraph, including such limits on the responsibilities as the Secretary determines to be appropriate.

"(b) CESSATION OF DISSEMINATION.—

"(1) FAILURE OF MANUFACTURER TO COMPLY WITH REQUIREMENTS.—The Secretary may order a manufacturer to cease the dissemination of information pursuant to section 551 if the Secretary determines that the information being disseminated does not comply with the requirements established in this subchapter. Such an order may be issued only after the Secretary has provided notice to the manufacturer of the intent of the Secretary to issue the order and (unless paragraph (2)(B) applies) has provided an opportunity for a meeting with respect to such intent. If the failure of the manufacturer constitutes a minor violation of this subchapter, the Secretary shall delay issuing the order and provide to the manufacturer an opportunity to correct the violation.

"(2) SUPPLEMENTAL APPLICATIONS.—The Secretary may order a manufacturer to cease the dissemination of information pursuant to section 551 if—

"(A) in the case of a manufacturer that has submitted a supplemental application for a new use pursuant to section 554(a)(1), the Secretary determines that the supplemental application does not contain adequate information for approval of the new use for which the application was submitted;

"(B) in the case of a manufacturer that has submitted a certification under section 554(b), the manufacturer has not, within the 6-month period involved, submitted the supplemental application referred to in the certification; or

"(C) in the case of a manufacturer that has submitted a certification under section 554(c) but has not yet submitted the supplemental application referred to in the certification, the Secretary determines, after an informal hearing, that the manufacturer is not acting with due diligence to complete the studies involved.

"(3) TERMINATION OF DEEMED APPROVAL OF EXEMPTION REGARDING SUPPLEMENTAL APPLICATIONS.—If under section 554(d)(3) the Secretary terminates a deemed approval of an exemption, the Secretary may order the manufacturer involved to cease disseminating the information. A manufacturer shall comply with an order under the preceding sentence not later than 60 days after the receipt of the order.

"(c) CORRECTIVE ACTIONS BY MANUFACTURERS.—

"(1) IN GENERAL.—In any case in which under this section the Secretary orders a manufacturer to cease disseminating information, the Secretary may order the manufacturer to take action to correct the information that has been disseminated, except as provided in paragraph (2).

"(2) TERMINATION OF DEEMED APPROVAL OF EXEMPTION REGARDING SUPPLEMENTAL APPLICA-

TIONS.—In the case of an order under subsection (b)(3) to cease disseminating information, the Secretary may not order the manufacturer involved to take action to correct the information that has been disseminated unless the Secretary determines that the new use described in the information would pose a significant risk to the public health.

"SEC. 556. DEFINITIONS.

"For purposes of this subchapter:

"(1) The term 'health care practitioner' means a physician, or other individual who is a provider of health care, who is licensed under the law of a State to prescribe drugs or devices.

"(2) The terms 'health insurance issuer' and 'group health plan' have the meaning given such terms under section 2791 of the Public Health Service Act.

"(3) The term 'manufacturer' means a person who manufactures a drug or device, or who is licensed by such person to distribute or market the drug or device.

"(4) The term 'new use'—

"(A) with respect to a drug, means a use that is not included in the labeling of the approved drug; and

"(B) with respect to a device, means a use that is not included in the labeling for the approved or cleared device.

"(5) The term 'scientific or medical journal' means a scientific or medical publication—

"(A) that is published by an organization—

"(i) that has an editorial board;

"(ii) that utilizes experts, who have demonstrated expertise in the subject of an article under review by the organization and who are independent of the organization, to review and objectively select, reject, or provide comments about proposed articles; and

"(iii) that has a publicly stated policy, to which the organization adheres, of full disclosure of any conflict of interest or biases for all authors or contributors involved with the journal or organization;

"(B) whose articles are peer-reviewed and published in accordance with the regular peer-review procedures of the organization;

"(C) that is generally recognized to be of national scope and reputation;

"(D) that is indexed in the Index Medicus of the National Library of Medicine of the National Institutes of Health; and

"(E) that is not in the form of a special supplement that has been funded in whole or in part by one or more manufacturers.

"SEC. 557. RULES OF CONSTRUCTION.

"(a) UNSOLICITED REQUEST.—Nothing in section 551 shall be construed as prohibiting a manufacturer from disseminating information in response to an unsolicited request from a health care practitioner.

"(b) DISSEMINATION OF INFORMATION ON DRUGS OR DEVICES NOT EVIDENCE OF INTENDED USE.—Notwithstanding subsection (a), (f), or (o) of section 502, or any other provision of law, the dissemination of information relating to a new use of a drug or device, in accordance with section 551, shall not be construed by the Secretary as evidence of a new intended use of the drug or device that is different from the intended use of the drug or device set forth in the official labeling of the drug or device. Such dissemination shall not be considered by the Secretary as labeling, adulteration, or misbranding of the drug or device.

"(c) PATENT PROTECTION.—Nothing in section 551 shall affect patent rights in any manner.

"(d) AUTHORIZATION FOR DISSEMINATION OF ARTICLES AND FEES FOR REPRINTS OF ARTICLES.—Nothing in section 551 shall be construed as prohibiting an entity that publishes a scientific journal (as defined in section 556(5)) from requiring authorization from the entity to disseminate an article published by such entity or

charging fees for the purchase of reprints of published articles from such entity."

(b) **PROHIBITED ACT.**—Section 301 (21 U.S.C. 331), as amended by section 210, is amended by adding at the end the following:

"(z) The dissemination of information in violation of section 551."

(c) **REGULATIONS.**—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall promulgate regulations to implement the amendments made by this section.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall take effect 1 year after the date of enactment of this Act, or upon the Secretary's issuance of final regulations pursuant to subsection (c), whichever is sooner.

(e) **SUNSET.**—The amendments made by this section cease to be effective September 30, 2006, or 7 years after the date on which the Secretary promulgates the regulations described in subsection (c), whichever is later.

(f) **STUDIES AND REPORTS.**—

(1) **GENERAL ACCOUNTING OFFICE.**—

(A) **IN GENERAL.**—The Comptroller General of the United States shall conduct a study to determine the impact of subchapter D of chapter V of the Federal Food, Drug, and Cosmetic Act, as added by this section, on the resources of the Department of Health and Human Services.

(B) **REPORT.**—Not later than January 1, 2002, the Comptroller General of the United States shall prepare and submit to the Committee on Labor and Human Resources of the Senate and the Committee on Commerce of the House of Representatives a report of the results of the study.

(2) **DEPARTMENT OF HEALTH AND HUMAN SERVICES.**—

(A) **IN GENERAL.**—In order to assist Congress in determining whether the provisions of such subchapter should be extended beyond the termination date specified in subsection (e), the Secretary of Health and Human Services shall, in accordance with subparagraph (B), arrange for the conduct of a study of the scientific issues raised as a result of the enactment of such subchapter including issues relating to—

(i) the effectiveness of such subchapter with respect to the provision of useful scientific information to health care practitioners;

(ii) the quality of the information being disseminated pursuant to the provisions of such subchapter;

(iii) the quality and usefulness of the information provided, in accordance with such subchapter, by the Secretary or by the manufacturer at the request of the Secretary; and

(iv) the impact of such subchapter on research in the area of new uses, indications, or dosages, particularly the impact on pediatric indications and rare diseases.

(3) **PROCEDURE FOR STUDY.**—

(A) **IN GENERAL.**—The Secretary shall request the Institute of Medicine of the National Academy of Sciences to conduct the study required by paragraph (2), and to prepare and submit the report required by subparagraph (B), under an arrangement by which the actual expenses incurred by the Institute of Medicine in conducting the study and preparing the report will be paid by the Secretary. If the Institute of Medicine is unwilling to conduct the study under such an arrangement, the Comptroller General of the United States shall conduct such study.

(B) **REPORT.**—Not later than September 30, 2005, the Institute of Medicine or the Comptroller General of the United States, as appropriate, shall prepare and submit to the Committee on Labor and Human Resources of the Senate, the Committee on Commerce of the House of Representatives, and the Secretary a report of the results of the study required by

paragraph (2). The Secretary, after the receipt of the report, shall make the report available to the public.

**SEC. 402. EXPANDED ACCESS TO INVESTIGATIONAL THERAPIES AND DIAGNOSTICS.**

Chapter V (21 U.S.C. 351 et seq.), as amended in section 401, is further amended by adding at the end the following:

**"SUBCHAPTER E—GENERAL PROVISIONS RELATING TO DRUGS AND DEVICES**

**"SEC. 561. EXPANDED ACCESS TO UNAPPROVED THERAPIES AND DIAGNOSTICS.**

"(a) **EMERGENCY SITUATIONS.**—The Secretary may, under appropriate conditions determined by the Secretary, authorize the shipment of investigational drugs or investigational devices for the diagnosis, monitoring, or treatment of a serious disease or condition in emergency situations.

"(b) **INDIVIDUAL PATIENT ACCESS TO INVESTIGATIONAL PRODUCTS INTENDED FOR SERIOUS DISEASES.**—Any person, acting through a physician licensed in accordance with State law, may request from a manufacturer or distributor, and any manufacturer or distributor may, after complying with the provisions of this subsection, provide to such physician an investigational drug or investigational device for the diagnosis, monitoring, or treatment of a serious disease or condition if—

"(1) the licensed physician determines that the person has no comparable or satisfactory alternative therapy available to diagnose, monitor, or treat the disease or condition involved, and that the probable risk to the person from the investigational drug or investigational device is not greater than the probable risk from the disease or condition;

"(2) the Secretary determines that there is sufficient evidence of safety and effectiveness to support the use of the investigational drug or investigational device in the case described in paragraph (1);

"(3) the Secretary determines that provision of the investigational drug or investigational device will not interfere with the initiation, conduct, or completion of clinical investigations to support marketing approval; and

"(4) the sponsor, or clinical investigator, of the investigational drug or investigational device submits to the Secretary a clinical protocol consistent with the provisions of section 505(i) or 520(g), including any regulations promulgated under section 505(i) or 520(g), describing the use of the investigational drug or investigational device in a single patient or a small group of patients.

"(c) **TREATMENT INVESTIGATIONAL NEW DRUG APPLICATIONS AND TREATMENT INVESTIGATIONAL DEVICE EXEMPTIONS.**—Upon submission by a sponsor or a physician of a protocol intended to provide widespread access to an investigational drug or investigational device for eligible patients (referred to in this subsection as an 'expanded access protocol'), the Secretary shall permit such investigational drug or investigational device to be made available for expanded access under a treatment investigational new drug application or treatment investigational device exemption if the Secretary determines that—

"(1) under the treatment investigational new drug application or treatment investigational device exemption, the investigational drug or investigational device is intended for use in the diagnosis, monitoring, or treatment of a serious or immediately life-threatening disease or condition;

"(2) there is no comparable or satisfactory alternative therapy available to diagnose, monitor, or treat that stage of disease or condition in the population of patients to which the investigational drug or investigational device is intended to be administered;

"(3)(A) the investigational drug or investigational device is under investigation in a controlled clinical trial for the use described in paragraph (1) under an investigational drug application in effect under section 505(i) or investigational device exemption in effect under section 520(g); or

"(B) all clinical trials necessary for approval of that use of the investigational drug or investigational device have been completed;

"(4) the sponsor of the controlled clinical trials is actively pursuing marketing approval of the investigational drug or investigational device for the use described in paragraph (1) with due diligence;

"(5) in the case of an investigational drug or investigational device described in paragraph (3)(A), the provision of the investigational drug or investigational device will not interfere with the enrollment of patients in ongoing clinical investigations under section 505(i) or 520(g);

"(6) in the case of serious diseases, there is sufficient evidence of safety and effectiveness to support the use described in paragraph (1); and

"(7) in the case of immediately life-threatening diseases, the available scientific evidence, taken as a whole, provides a reasonable basis to conclude that the investigational drug or investigational device may be effective for its intended use and would not expose patients to an unreasonable and significant risk of illness or injury.

A protocol submitted under this subsection shall be subject to the provisions of section 505(i) or 520(g), including regulations promulgated under section 505(i) or 520(g). The Secretary may inform national, State, and local medical associations and societies, voluntary health associations, and other appropriate persons about the availability of an investigational drug or investigational device under expanded access protocols submitted under this subsection. The information provided by the Secretary, in accordance with the preceding sentence, shall be the same type of information that is required by section 402(j)(3) of the Public Health Service Act.

"(d) **TERMINATION.**—The Secretary may, at any time, with respect to a sponsor, physician, manufacturer, or distributor described in this section, terminate expanded access provided under this section for an investigational drug or investigational device if the requirements under this section are no longer met.

"(e) **DEFINITIONS.**—In this section, the terms 'investigational drug', 'investigational device', 'treatment investigational new drug application', and 'treatment investigational device exemption' shall have the meanings given the terms in regulations prescribed by the Secretary."

**SEC. 403. APPROVAL OF SUPPLEMENTAL APPLICATIONS FOR APPROVED PRODUCTS.**

(a) **STANDARDS.**—Not later than 180 days after the date of enactment of this Act, the Secretary of Health and Human Services shall publish in the Federal Register standards for the prompt review of supplemental applications submitted for approved articles under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) or section 351 of the Public Health Service Act (42 U.S.C. 262).

(b) **GUIDANCE TO INDUSTRY.**—Not later than 180 days after the date of enactment of this Act, the Secretary shall issue final guidances to clarify the requirements for, and facilitate the submission of data to support, the approval of supplemental applications for the approved articles described in subsection (a). The guidances shall—

(1) clarify circumstances in which published matter may be the basis for approval of a supplemental application;

(2) specify data requirements that will avoid duplication of previously submitted data by recognizing the availability of data previously submitted in support of an original application; and

(3) define supplemental applications that are eligible for priority review.

(c) **RESPONSIBILITIES OF CENTERS.**—The Secretary shall designate an individual in each center within the Food and Drug Administration (except the Center for Food Safety and Applied Nutrition) to be responsible for—

(1) encouraging the prompt review of supplemental applications for approved articles; and

(2) working with sponsors to facilitate the development and submission of data to support supplemental applications.

(d) **COLLABORATION.**—The Secretary shall implement programs and policies that will foster collaboration between the Food and Drug Administration, the National Institutes of Health, professional medical and scientific societies, and other persons, to identify published and unpublished studies that may support a supplemental application, and to encourage sponsors to make supplemental applications or conduct further research in support of a supplemental application based, in whole or in part, on such studies.

#### SEC. 404. DISPUTE RESOLUTION.

Subchapter E of chapter V, as added by section 402, is amended by adding at the end the following:

##### “SEC. 562. DISPUTE RESOLUTION.

“If, regarding an obligation concerning drugs or devices under this Act or section 351 of the Public Health Service Act, there is a scientific controversy between the Secretary and a person who is a sponsor, applicant, or manufacturer and no specific provision of the Act involved, including a regulation promulgated under such Act, provides a right of review of the matter in controversy, the Secretary shall, by regulation, establish a procedure under which such sponsor, applicant, or manufacturer may request a review of such controversy, including a review by an appropriate scientific advisory panel described in section 505(n) or an advisory committee described in section 515(g)(2)(B). Any such review shall take place in a timely manner. The Secretary shall promulgate such regulations within 1 year after the date of the enactment of the Food and Drug Administration Modernization Act of 1997.”

#### SEC. 405. INFORMAL AGENCY STATEMENTS.

Section 701 (21 U.S.C. 371) is amended by adding at the end the following:

“(h)(1)(A) The Secretary shall develop guidance documents with public participation and ensure that information identifying the existence of such documents and the documents themselves are made available to the public both in written form and, as feasible, through electronic means. Such documents shall not create or confer any rights for or on any person, although they present the views of the Secretary on matters under the jurisdiction of the Food and Drug Administration.

“(B) Although guidance documents shall not be binding on the Secretary, the Secretary shall ensure that employees of the Food and Drug Administration do not deviate from such guidances without appropriate justification and supervisory concurrence. The Secretary shall provide training to employees in how to develop and use guidance documents and shall monitor the development and issuance of such documents.

“(C) For guidance documents that set forth initial interpretations of a statute or regulation, changes in interpretation or policy that are of more than a minor nature, complex scientific issues, or highly controversial issues, the Secretary shall ensure public participation prior to implementation of guidance documents, unless

the Secretary determines that such prior public participation is not feasible or appropriate. In such cases, the Secretary shall provide for public comment upon implementation and take such comment into account.

“(D) For guidance documents that set forth existing practices or minor changes in policy, the Secretary shall provide for public comment upon implementation.

“(2) In developing guidance documents, the Secretary shall ensure uniform nomenclature for such documents and uniform internal procedures for approval of such documents. The Secretary shall ensure that guidance documents and revisions of such documents are properly dated and indicate the nonbinding nature of the documents. The Secretary shall periodically review all guidance documents and, where appropriate, revise such documents.

“(3) The Secretary, acting through the Commissioner, shall maintain electronically and update and publish periodically in the Federal Register a list of guidance documents. All such documents shall be made available to the public.

“(4) The Secretary shall ensure that an effective appeals mechanism is in place to address complaints that the Food and Drug Administration is not developing and using guidance documents in accordance with this subsection.

“(5) Not later than July 1, 2000, the Secretary after evaluating the effectiveness of the Good Guidance Practices document, published in the Federal Register at 62 Fed. Reg. 8961, shall promulgate a regulation consistent with this subsection specifying the policies and procedures of the Food and Drug Administration for the development, issuance, and use of guidance documents.”

#### SEC. 406. FOOD AND DRUG ADMINISTRATION MISSION AND ANNUAL REPORT.

(a) **MISSION.**—Section 903 (21 U.S.C. 393) is amended—

(1) by redesignating subsections (b) and (c) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (a) the following:

“(b) **MISSION.**—The Administration shall—

“(1) promote the public health by promptly and efficiently reviewing clinical research and taking appropriate action on the marketing of regulated products in a timely manner;

“(2) with respect to such products, protect the public health by ensuring that—

“(A) foods are safe, wholesome, sanitary, and properly labeled;

“(B) human and veterinary drugs are safe and effective;

“(C) there is reasonable assurance of the safety and effectiveness of devices intended for human use;

“(D) cosmetics are safe and properly labeled; and

“(E) public health and safety are protected from electronic product radiation;

“(3) participate through appropriate processes with representatives of other countries to reduce the burden of regulation, harmonize regulatory requirements, and achieve appropriate reciprocal arrangements; and

“(4) as determined to be appropriate by the Secretary, carry out paragraphs (1) through (3) in consultation with experts in science, medicine, and public health, and in cooperation with consumers, users, manufacturers, importers, packers, distributors, and retailers of regulated products.”

(b) **ANNUAL REPORT.**—Section 903 (21 U.S.C. 393), as amended by subsection (a), is further amended by adding at the end the following:

“(f) **AGENCY PLAN FOR STATUTORY COMPLIANCE.**—

“(1) **IN GENERAL.**—Not later than 1 year after the date of enactment of the Food and Drug Administration Modernization Act of 1997, the Sec-

retary, after consultation with appropriate scientific and academic experts, health care professionals, representatives of patient and consumer advocacy groups, and the regulated industry, shall develop and publish in the Federal Register a plan bringing the Secretary into compliance with each of the obligations of the Secretary under this Act. The Secretary shall review the plan biannually and shall revise the plan as necessary, in consultation with such persons.

“(2) **OBJECTIVES OF AGENCY PLAN.**—The plan required by paragraph (1) shall establish objectives and mechanisms to achieve such objectives, including objectives related to—

“(A) maximizing the availability and clarity of information about the process for review of applications and submissions (including petitions, notifications, and any other similar forms of request) made under this Act;

“(B) maximizing the availability and clarity of information for consumers and patients concerning new products;

“(C) implementing inspection and postmarket monitoring provisions of this Act;

“(D) ensuring access to the scientific and technical expertise needed by the Secretary to meet obligations described in paragraph (1);

“(E) establishing mechanisms, by July 1, 1999, for meeting the time periods specified in this Act for the review of all applications and submissions described in subparagraph (A) and submitted after the date of enactment of the Food and Drug Administration Modernization Act of 1997; and

“(F) eliminating backlogs in the review of applications and submissions described in subparagraph (A), by January 1, 2000.

“(g) **ANNUAL REPORT.**—The Secretary shall annually prepare and publish in the Federal Register and solicit public comment on a report that—

“(1) provides detailed statistical information on the performance of the Secretary under the plan described in subsection (f);

“(2) compares such performance of the Secretary with the objectives of the plan and with the statutory obligations of the Secretary; and

“(3) identifies any regulatory policy that has a significant negative impact on compliance with any objective of the plan or any statutory obligation and sets forth any proposed revision to any such regulatory policy.”

#### SEC. 407. INFORMATION SYSTEM.

(a) **AMENDMENT.**—Chapter VII (21 U.S.C. 371 et seq.) is amended by adding at the end the following:

“SUBCHAPTER D—INFORMATION AND EDUCATION

##### “SEC. 741. INFORMATION SYSTEM.

“The Secretary shall establish and maintain an information system to track the status and progress of each application or submission (including a petition, notification, or other similar form of request) submitted to the Food and Drug Administration requesting agency action.”

(b) **REPORT.**—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall submit a report to the Committee on Labor and Human Resources of the Senate and the Committee on Commerce of the House of Representatives on the status of the system to be established under the amendment made by subsection (a), including the projected costs of the system and concerns about confidentiality.

#### SEC. 408. EDUCATION AND TRAINING.

(a) **FOOD AND DRUG ADMINISTRATION.**—Chapter VII (21 U.S.C. 371 et seq.), as amended by section 407, is further amended by adding at the end the following section:

##### “SEC. 742. EDUCATION.

“(a) **IN GENERAL.**—The Secretary shall conduct training and education programs for the

employees of the Food and Drug Administration relating to the regulatory responsibilities and policies established by this Act, including programs for—

- “(1) scientific training;
- “(2) training to improve the skill of officers and employees authorized to conduct inspections under section 704;
- “(3) training to achieve product specialization in such inspections; and
- “(4) training in administrative process and procedure and integrity issues.

“(b) **INTRAMURAL FELLOWSHIPS AND OTHER TRAINING PROGRAMS.**—The Secretary, acting through the Commissioner, may, through fellowships and other training programs, conduct and support intramural research training for predoctoral and postdoctoral scientists and physicians.”

“(b) **CENTERS FOR DISEASE CONTROL AND PREVENTION.**—

“(1) **IN GENERAL.**—Part B of title III of the Public Health Service Act is amended by inserting after section 317F (42 U.S.C. 247b-7) the following:

“**SEC. 317G. FELLOWSHIP AND TRAINING PROGRAMS.**

“The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall establish fellowship and training programs to be conducted by such Centers to train individuals to develop skills in epidemiology, surveillance, laboratory analysis, and other disease detection and prevention methods. Such programs shall be designed to enable health professionals and health personnel trained under such programs to work, after receiving such training, in local, State, national, and international efforts toward the prevention and control of diseases, injuries, and disabilities. Such fellowships and training may be administered through the use of either appointment or non-appointment procedures.”

“(2) **EFFECTIVE DATE.**—The amendment made by this subsection is deemed to have taken effect July 1, 1995.

**SEC. 409. CENTERS FOR EDUCATION AND RESEARCH ON THERAPEUTICS.**

Title IX of the Public Health Service Act (42 U.S.C. 299 et seq.) is amended by adding at the end of part A the following new section:

“**SEC. 905. DEMONSTRATION PROGRAM REGARDING CENTERS FOR EDUCATION AND RESEARCH ON THERAPEUTICS.**

“(a) **IN GENERAL.**—The Secretary, acting through the Administrator and in consultation with the Commissioner of Food and Drugs, shall establish a demonstration program for the purpose of making one or more grants for the establishment and operation of one or more centers to carry out the activities specified in subsection (b).

“(b) **REQUIRED ACTIVITIES.**—The activities referred to in subsection (a) are the following:

- “(1) The conduct of state-of-the-art clinical and laboratory research for the following purposes:
  - “(A) To increase awareness of—
    - “(i) new uses of drugs, biological products, and devices;
    - “(ii) ways to improve the effective use of drugs, biological products, and devices; and
    - “(iii) risks of new uses and risks of combinations of drugs and biological products.
  - “(B) To provide objective clinical information to the following individuals and entities:
    - “(i) Health care practitioners or other providers of health care goods or services.
    - “(ii) Pharmacy benefit managers.
    - “(iii) Health maintenance organizations or other managed health care organizations.
    - “(iv) Health care insurers or governmental agencies.
    - “(v) Consumers.

“(C) To improve the quality of health care while reducing the cost of health care through—

“(i) the appropriate use of drugs, biological products, or devices; and

“(ii) the prevention of adverse effects of drugs, biological products, and devices and the consequences of such effects, such as unnecessary hospitalizations.

“(2) The conduct of research on the comparative effectiveness and safety of drugs, biological products, and devices.

“(3) Such other activities as the Secretary determines to be appropriate, except that the grant may not be expended to assist the Secretary in the review of new drugs.

“(c) **APPLICATION FOR GRANT.**—A grant under subsection (a) may be made only if an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

“(d) **PEER REVIEW.**—A grant under subsection (a) may be made only if the application for the grant has undergone appropriate technical and scientific peer review.

“(e) **AUTHORIZATION OF APPROPRIATIONS.**—For the purpose of carrying out this section, there are authorized to be appropriated \$2,000,000 for fiscal year 1998, and \$3,000,000 for each of fiscal years 1999 through 2002.”

**SEC. 410. MUTUAL RECOGNITION AGREEMENTS AND GLOBAL HARMONIZATION.**

(a) **GOOD MANUFACTURING PRACTICE REQUIREMENTS.**—Section 520(f)(1)(B) (21 U.S.C. 360(f)(1)(B)) is amended—

(1) in clause (i), by striking “, and” at the end and inserting a semicolon;

(2) in clause (ii), by striking the period and inserting “; and”; and

(3) by inserting after clause (ii) the following:

“(iii) ensure that such regulation conforms to the extent practicable, with internationally recognized standards defining quality systems, or parts of the standards, for medical devices.”

(b) **HARMONIZATION EFFORTS.**—Section 803 (21 U.S.C. 383) is amended by adding at the end the following:

“(c)(1) The Secretary shall support the Office of the United States Trade Representative, in consultation with the Secretary of Commerce, in meetings with representatives of other countries to discuss methods and approaches to reduce the burden of regulation and harmonize regulatory requirements if the Secretary determines that such harmonization continues consumer protections consistent with the purposes of this Act.

“(2) The Secretary shall support the Office of the United States Trade Representative, in consultation with the Secretary of Commerce, in efforts to move toward the acceptance of mutual recognition agreements relating to the regulation of drugs, biological products, devices, foods, food additives, and color additives, and the regulation of good manufacturing practices, between the European Union and the United States.

“(3) The Secretary shall regularly participate in meetings with representatives of other foreign governments to discuss and reach agreement on methods and approaches to harmonize regulatory requirements.

“(4) The Secretary shall, not later than 180 days after the date of enactment of the Food and Drug Administration Modernization Act of 1997, make public a plan that establishes a framework for achieving mutual recognition of good manufacturing practices inspections.

“(5) Paragraphs (1) through (4) shall not apply with respect to products defined in section 201(ff).”

**SEC. 411. ENVIRONMENTAL IMPACT REVIEW.**

Chapter VII (21 U.S.C. 371 et seq.), as amended by section 407, is further amended by adding at the end the following:

“**SUBCHAPTER E—ENVIRONMENTAL IMPACT REVIEW**

“**SEC. 746. ENVIRONMENTAL IMPACT.**

“Notwithstanding any other provision of law, an environmental impact statement prepared in accordance with the regulations published in part 25 of title 21, Code of Federal Regulations (as in effect on August 31, 1997) in connection with an action carried out under (or a recommendation or report relating to) this Act, shall be considered to meet the requirements for a detailed statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).”

**SEC. 412. NATIONAL UNIFORMITY FOR NON-PRESCRIPTION DRUGS AND COSMETICS.**

(a) **NONPRESCRIPTION DRUGS.**—Chapter VII (21 U.S.C. 371 et seq.), as amended by section 411, is further amended by adding at the end the following:

“**SUBCHAPTER F—NATIONAL UNIFORMITY FOR NONPRESCRIPTION DRUGS AND PREEMPTION FOR LABELING OR PACKAGING OF COSMETICS**

“**SEC. 751. NATIONAL UNIFORMITY FOR NON-PRESCRIPTION DRUGS.**

“(a) **IN GENERAL.**—Except as provided in subsection (b), (c)(1), (d), (e), or (f), no State or political subdivision of a State may establish or continue in effect any requirement—

“(1) that relates to the regulation of a drug that is not subject to the requirements of section 503(b)(1) or 503(f)(1)(A); and

“(2) that is different from or in addition to, or that is otherwise not identical with, a requirement under this Act, the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471 et seq.), or the Fair Packaging and Labeling Act (15 U.S.C. 1451 et seq.).

“(b) **EXEMPTION.**—

“(1) **IN GENERAL.**—Upon application of a State or political subdivision thereof, the Secretary may by regulation, after notice and opportunity for written and oral presentation of views, exempt from subsection (a), under such conditions as may be prescribed in such regulation, a State or political subdivision requirement that—

“(A) protects an important public interest that would otherwise be unprotected, including the health and safety of children;

“(B) would not cause any drug to be in violation of any applicable requirement or prohibition under Federal law; and

“(C) would not unduly burden interstate commerce.

“(2) **TIMELY ACTION.**—The Secretary shall make a decision on the exemption of a State or political subdivision requirement under paragraph (1) not later than 120 days after receiving the application of the State or political subdivision under paragraph (1).

“(c) **SCOPE.**—

“(1) **IN GENERAL.**—This section shall not apply to—

“(A) any State or political subdivision requirement that relates to the practice of pharmacy; or

“(B) any State or political subdivision requirement that a drug be dispensed only upon the prescription of a practitioner licensed by law to administer such drug.

“(2) **SAFETY OR EFFECTIVENESS.**—For purposes of subsection (a), a requirement that relates to the regulation of a drug shall be deemed to include any requirement relating to public information or any other form of public communication relating to a warning of any kind for a drug.

“(d) **EXCEPTIONS.**—

“(1) **IN GENERAL.**—In the case of a drug described in subsection (a)(1) that is not the subject of an application approved under section 505 or section 507 (as in effect on the day before the date of enactment of the Food and Drug Administration Modernization Act of 1997) or a

final regulation promulgated by the Secretary establishing conditions under which the drug is generally recognized as safe and effective and not misbranded, subsection (a) shall apply only with respect to a requirement of a State or political subdivision of a State that relates to the same subject as, but is different from or in addition to, or that is otherwise not identical with—

“(A) a regulation in effect with respect to the drug pursuant to a statute described in subsection (a)(2); or

“(B) any other requirement in effect with respect to the drug pursuant to an amendment to such a statute made on or after the date of enactment of the Food and Drug Administration Modernization Act of 1997.

“(2) STATE INITIATIVES.—This section shall not apply to a State requirement adopted by a State public initiative or referendum enacted prior to September 1, 1997.

“(e) NO EFFECT ON PRODUCT LIABILITY LAW.—Nothing in this section shall be construed to modify or otherwise affect any action or the liability of any person under the product liability law of any State.

“(f) STATE ENFORCEMENT AUTHORITY.—Nothing in this section shall prevent a State or political subdivision thereof from enforcing, under any relevant civil or other enforcement authority, a requirement that is identical to a requirement of this Act.”

(b) INSPECTIONS.—Section 704(a)(1) (21 U.S.C. 374(a)(1)) is amended by striking “prescription drugs” each place it appears and inserting “prescription drugs, nonprescription drugs intended for human use.”

(c) MISBRANDING.—Subparagraph (1) of section 502(e) (21 U.S.C. 352(e)(1)) is amended to read as follows:

“(1)(A) If it is a drug, unless its label bears, to the exclusion of any other nonproprietary name (except the applicable systematic chemical name or the chemical formula)—

“(i) the established name (as defined in subparagraph (3)) of the drug, if there is such a name;

“(ii) the established name and quantity or, if determined to be appropriate by the Secretary, the proportion of each active ingredient, including the quantity, kind, and proportion of any alcohol, and also including whether active or not the established name and quantity or if determined to be appropriate by the Secretary, the proportion of any bromides, ether, chloroform, acetanilide, acetophenetidin, amidopyrine, antipyrine, atropine, hyoscyne, hyoscyamine, arsenic, digitalis, digitalis glucosides, mercury, ouabain, strophanthin, strychnine, thyroid, or any derivative or preparation of any such substances, contained therein, except that the requirement for stating the quantity of the active ingredients, other than the quantity of those specifically named in this subclause, shall not apply to nonprescription drugs not intended for human use; and

“(iii) the established name of each inactive ingredient listed in alphabetical order on the outside container of the retail package and, if determined to be appropriate by the Secretary, on the immediate container, as prescribed in regulation promulgated by the Secretary, except that nothing in this subclause shall be deemed to require that any trade secret be divulged, and except that the requirements of this subclause with respect to alphabetical order shall apply only to nonprescription drugs that are not also cosmetics and that this subclause shall not apply to nonprescription drugs not intended for human use.

“(B) For any prescription drug the established name of such drug or ingredient, as the case may be, on such label (and on any labeling on which a name for such drug or ingredient is used) shall be printed prominently and in type

at least half as large as that used thereon for any proprietary name or designation for such drug or ingredient, except that to the extent that compliance with the requirements of subclause (ii) or (iii) of clause (A) or this clause is impracticable, exemptions shall be established by regulations promulgated by the Secretary.”

(d) COSMETICS.—Subchapter F of chapter VII, as amended by subsection (a), is further amended by adding at the end the following:

“SEC. 752. PREEMPTION FOR LABELING OR PACKAGING OF COSMETICS.

“(a) IN GENERAL.—Except as provided in subsection (b), (d), or (e), no State or political subdivision of a State may establish or continue in effect any requirement for labeling or packaging of a cosmetic that is different from or in addition to, or that is otherwise not identical with, a requirement specifically applicable to a particular cosmetic or class of cosmetics under this Act, the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471 et seq.), or the Fair Packaging and Labeling Act (15 U.S.C. 1451 et seq.).

“(b) EXEMPTION.—Upon application of a State or political subdivision thereof, the Secretary may by regulation, after notice and opportunity for written and oral presentation of views, exempt from subsection (a), under such conditions as may be prescribed in such regulation, a State or political subdivision requirement for labeling or packaging that—

“(1) protects an important public interest that would otherwise be unprotected;

“(2) would not cause a cosmetic to be in violation of any applicable requirement or prohibition under Federal law; and

“(3) would not unduly burden interstate commerce.

“(c) SCOPE.—For purposes of subsection (a), a reference to a State requirement that relates to the packaging or labeling of a cosmetic means any specific requirement relating to the same aspect of such cosmetic as a requirement specifically applicable to that particular cosmetic or class of cosmetics under this Act for packaging or labeling, including any State requirement relating to public information or any other form of public communication.

“(d) NO EFFECT ON PRODUCT LIABILITY LAW.—Nothing in this section shall be construed to modify or otherwise affect any action or the liability of any person under the product liability law of any State.

“(e) STATE INITIATIVE.—This section shall not apply to a State requirement adopted by a State public initiative or referendum enacted prior to September 1, 1997.”

SEC. 413. FOOD AND DRUG ADMINISTRATION STUDY OF MERCURY COMPOUNDS IN DRUGS AND FOOD.

(a) LIST AND ANALYSIS.—The Secretary of Health and Human Services shall, acting through the Food and Drug Administration—

(1) compile a list of drugs and foods that contain intentionally introduced mercury compounds, and

(2) provide a quantitative and qualitative analysis of the mercury compounds in the list under paragraph (1).

The Secretary shall compile the list required by paragraph (1) within 2 years after the date of enactment of the Food and Drug Administration Modernization Act of 1997 and shall provide the analysis required by paragraph (2) within 2 years after such date of enactment.

(b) STUDY.—The Secretary of Health and Human Services, acting through the Food and Drug Administration, shall conduct a study of the effect on humans of the use of mercury compounds in nasal sprays. Such study shall include data from other studies that have been made of such use.

(c) STUDY OF MERCURY SALES.—

(1) STUDY.—The Secretary of Health and Human Services, acting through the Food and

Drug Administration and subject to appropriations, shall conduct, or shall contract with the Institute of Medicine of the National Academy of Sciences to conduct, a study of the effect on humans of the use of elemental, organic, or inorganic mercury when offered for sale as a drug or dietary supplement. Such study shall, among other things, evaluate—

(A) the scope of mercury use as a drug or dietary supplement; and

(B) the adverse effects on health of children and other sensitive populations resulting from exposure to, or ingestion or inhalation of, mercury when so used.

In conducting such study, the Secretary shall consult with the Administrator of the Environmental Protection Agency, the Chair of the Consumer Product Safety Commission, and the Administrator of the Agency for Toxic Substances and Disease Registry, and, to the extent the Secretary believes necessary or appropriate, with any other Federal or private entity.

(2) REGULATIONS.—If, in the opinion of the Secretary, the use of elemental, organic, or inorganic mercury offered for sale as a drug or dietary supplement poses a threat to human health, the Secretary shall promulgate regulations restricting the sale of mercury intended for such use. At a minimum, such regulations shall be designed to protect the health of children and other sensitive populations from adverse effects resulting from exposure to, or ingestion or inhalation of, mercury. Such regulations, to the extent feasible, should not unnecessarily interfere with the availability of mercury for use in religious ceremonies.

SEC. 414. INTERAGENCY COLLABORATION.

Section 903 (21 U.S.C. 393), as amended by section 406, is further amended by inserting after subsection (b) the following:

“(c) INTERAGENCY COLLABORATION.—The Secretary shall implement programs and policies that will foster collaboration between the Administration, the National Institutes of Health, and other science-based Federal agencies, to enhance the scientific and technical expertise available to the Secretary in the conduct of the duties of the Secretary with respect to the development, clinical investigation, evaluation, and postmarket monitoring of emerging medical therapies, including complementary therapies, and advances in nutrition and food science.”

SEC. 415. CONTRACTS FOR EXPERT REVIEW.

Chapter IX (21 U.S.C. 391 et seq.), as amended by section 214, is further amended by adding at the end the following:

“SEC. 907. CONTRACTS FOR EXPERT REVIEW.

“(a) IN GENERAL.—

“(1) AUTHORITY.—The Secretary may enter into a contract with any organization or any individual (who is not an employee of the Department) with relevant expertise, to review and evaluate, for the purpose of making recommendations to the Secretary on, part or all of any application or submission (including a petition, notification, and any other similar form of request) made under this Act for the approval or classification of an article or made under section 351(a) of the Public Health Service Act (42 U.S.C. 262(a)) with respect to a biological product. Any such contract shall be subject to the requirements of section 708 relating to the confidentiality of information.

“(2) INCREASED EFFICIENCY AND EXPERTISE THROUGH CONTRACTS.—The Secretary may use the authority granted in paragraph (1) whenever the Secretary determines that use of a contract described in paragraph (1) will improve the timeliness of the review of an application or submission described in paragraph (1), unless using such authority would reduce the quality, or unduly increase the cost, of such review. The Secretary may use such authority whenever the

Secretary determines that use of such a contract will improve the quality of the review of an application or submission described in paragraph (1), unless using such authority would unduly increase the cost of such review. Such improvement in timeliness or quality may include providing the Secretary increased scientific or technical expertise that is necessary to review or evaluate new therapies and technologies.

**"(b) REVIEW OF EXPERT REVIEW.—**

**"(1) IN GENERAL.—**Subject to paragraph (2), the official of the Food and Drug Administration responsible for any matter for which expert review is used pursuant to subsection (a) shall review the recommendations of the organization or individual who conducted the expert review and shall make a final decision regarding the matter in a timely manner.

**"(2) LIMITATION.—**A final decision by the Secretary on any such application or submission shall be made within the applicable prescribed time period for review of the matter as set forth in this Act or in the Public Health Service Act (42 U.S.C. 201 et seq.)."

**SEC. 416. PRODUCT CLASSIFICATION.**

Subchapter E of chapter V, as amended by section 404, is further amended by adding at the end the following:

**"SEC. 563. CLASSIFICATION OF PRODUCTS.**

**"(a) REQUEST.—**A person who submits an application or submission (including a petition, notification, and any other similar form of request) under this Act for a product, may submit a request to the Secretary respecting the classification of the product as a drug, biological product, device, or a combination product subject to section 503(g) or respecting the component of the Food and Drug Administration that will regulate the product. In submitting the request, the person shall recommend a classification for the product, or a component to regulate the product, as appropriate.

**"(b) STATEMENT.—**Not later than 60 days after the receipt of the request described in subsection (a), the Secretary shall determine the classification of the product under subsection (a), or the component of the Food and Drug Administration that will regulate the product, and shall provide to the person a written statement that identifies such classification or such component, and the reasons for such determination. The Secretary may not modify such statement except with the written consent of the person, or for public health reasons based on scientific evidence.

**"(c) INACTION OF SECRETARY.—**If the Secretary does not provide the statement within the 60-day period described in subsection (b), the recommendation made by the person under subsection (a) shall be considered to be a final determination by the Secretary of such classification of the product, or the component of the Food and Drug Administration that will regulate the product, as applicable, and may not be modified by the Secretary except with the written consent of the person, or for public health reasons based on scientific evidence."

**SEC. 417. REGISTRATION OF FOREIGN ESTABLISHMENTS.**

Section 510(i) (21 U.S.C. 360(i)) is amended to read as follows:

**"(1) Any establishment within any foreign country engaged in the manufacture, preparation, propagation, compounding, or processing of a drug or a device that is imported or offered for import into the United States shall register with the Secretary the name and place of business of the establishment and the name of the United States agent for the establishment.**

**"(2) The establishment shall also provide the information required by subsection (j).**

**"(3) The Secretary is authorized to enter into cooperative arrangements with officials of foreign countries to ensure that adequate and eff-**

**fective means are available for purposes of determining, from time to time, whether drugs or devices manufactured, prepared, propagated, compounded, or processed by an establishment described in paragraph (1), if imported or offered for import into the United States, shall be refused admission on any of the grounds set forth in section 801(a)."**

**SEC. 418. CLARIFICATION OF SEIZURE AUTHORITY.**

Section 304(d)(1) (21 U.S.C. 334(d)(1)) is amended—

(1) in the fifth sentence, by striking "paragraphs (1) and (2) of section 801(e)" and inserting "subparagraphs (A) and (B) of section 801(e)(1)"; and

(2) by inserting after the fifth sentence the following: "Any person seeking to export an imported article pursuant to any of the provisions of this subsection shall establish that the article was intended for export at the time the article entered commerce."

**SEC. 419. INTERSTATE COMMERCE.**

Section 709 (21 U.S.C. 379a) is amended by striking "a device" and inserting "a device, food, drug, or cosmetic".

**SEC. 420. SAFETY REPORT DISCLAIMERS.**

Chapter VII (21 U.S.C. 371 et seq.), as amended by section 412, is further amended by adding at the end the following:

**"SUBCHAPTER G—SAFETY REPORTS**

**"SEC. 756. SAFETY REPORT DISCLAIMERS.**

"With respect to any entity that submits or is required to submit a safety report or other information in connection with the safety of a product (including a product that is a food, drug, device, dietary supplement, or cosmetic) under this Act (and any release by the Secretary of that report or information), such report or information shall not be construed to reflect necessarily a conclusion by the entity or the Secretary that the report or information constitutes an admission that the product involved malfunctioned, caused or contributed to an adverse experience, or otherwise caused or contributed to a death, serious injury, or serious illness. Such an entity need not admit, and may deny, that the report or information submitted by the entity constitutes an admission that the product involved malfunctioned, caused or contributed to an adverse experience, or caused or contributed to a death, serious injury, or serious illness."

**SEC. 421. LABELING AND ADVERTISING REGARDING COMPLIANCE WITH STATUTORY REQUIREMENTS.**

Section 301 (21 U.S.C. 331) is amended by striking paragraph (l).

**SEC. 422. RULE OF CONSTRUCTION.**

Nothing in this Act or the amendments made by this Act shall be construed to affect the question of whether the Secretary of Health and Human Services has any authority to regulate any tobacco product, tobacco ingredient, or tobacco additive. Such authority, if any, shall be exercised under the Federal Food, Drug, and Cosmetic Act as in effect on the day before the date of the enactment of this Act.

**TITLE V—EFFECTIVE DATE**

**SEC. 501. EFFECTIVE DATE.**

Except as otherwise provided in this Act, this Act and the amendments made by this Act, other than the provisions of and the amendments made by sections 111, 121, 125, and 307, shall take effect 90 days after the date of enactment of this Act.

And the House agree to the same.

That the House recede from its amendment to the title of the bill.

TOM BLILEY,  
MICHAEL BILIRAKIS,  
JOE BARTON,

JAMES GREENWOOD,  
RICHARD BURR,  
ED WHITFIELD,  
JOHN D. DINGELL,  
SHERRON BROWN,  
HENRY A. WAXMAN,  
RON KLINK,

Managers on the Part of the House.

JIM JEFFORDS,  
DAN COATS,  
JUDD GREGG,  
BILL FRIST,  
MIKE DEWINE,  
EDWARD M. KENNEDY,  
CHRISTOPHER DODD,  
TOM HARKIN,  
BARBARA A. MIKULSKI,

Managers on the Part of the Senate.

**JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE**

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 830) to amend the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act to improve the regulation of food, drugs, devices, and biological products, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment that is substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

The conference agreement on S. 830, the Food and Drug Administration Modernization Act of 1997, provides for (1) the reauthorization of the Prescription Drug User Fee Act of 1992; (2) the improvement of regulation of drugs through such reforms as those pertaining to pediatric studies of drugs, procedures relating to fast track drugs, health care economic information, national uniformity for over-the-counter drugs and cosmetics, and data requirements for drugs and biological products; (3) the improvement of regulation of medical devices through such reforms as those pertaining to device standards and data requirements, procedures relating to humanitarian and breakthrough devices, tracking and postmarket surveillance, and accredited party review; (4) the improvement of regulation of food through such reforms as those pertaining to the timetable and regulatory authority of the Secretary in processing health and nutrient content claims, food contact substance notifications, and information relating to irradiation treatment; and (5) general provisions pertaining to the dissemination of information, expanded access to investigational therapies, and consumer access to information about clinical trials of investigational therapies.

Certain matters agreed to in conference are noted below:

**TITLE I—IMPROVING REGULATION OF DRUGS Prescription Drug User Fee Act (Subtitle A)**

The conferees believe it is important to place the PDUFA reauthorization provisions

of the Act in the overall context of the budgetary agreements which have been put into place by the 1997 Balanced Budget Agreements (BBA). This Act preserves the original PDUFA adjustment factor and therefore the basic understanding behind the 1992 enactment of this provision: that is, the industry willingness to pay user fees for enhanced performance in the drug approval process. Nevertheless the conferees acknowledge that the 1997 BBA places tight constraints on the appropriations process, particularly in the out years. The conferees expect the appropriators will make every effort to meet the trigger so that FDA is allowed to collect and expend user fees. However, it must be acknowledged that particularly in the fifth year of BBA, budgetary pressures on all discretionary spending will be great.

Breakdowns of the actual spending levels at FDA have not traditionally been provided to the appropriators, making it difficult to conduct oversight. Beginning in Fiscal Year 1998, appropriators will require FDA to submit a directed operating budget as part of the annual budget request. This will serve as a functional breakdown of how appropriated dollars are spent, similar to the report FDA submits annually to show how the agency spent collected PDUFA user fees.

The conferees expect the President's budgetary request for FDA for salaries and expenses to meet the PDUFA levels specified for each of these years and not be based on any assumption of the enactment of new substitutive user fees on other FDA regulated industries.

#### *Pediatric studies of drugs (Sec. 111)*

The conference agreement provides that if the Secretary determines that information about a drug may produce health benefits in a pediatric population and makes a written request for pediatric studies (including a time frame for completing the studies), and the studies are completed and are accepted by the Secretary, then the sponsor or manufacturer will qualify for 6 months of extra market exclusivity. The agreement authorizes the Secretary to determine the time frame for completing the studies, but the conferees emphasize that such studies should be sought, conducted, and completed at the earliest possible opportunity. The conferees do not intend that such studies be artificially timed for market advantage.

The agreement provides that no new market exclusivity may be applied to any new drug for which a new drug application is submitted after January 1, 2002. However, the agreement provides a continuation of the program for certain drugs already on the market on the date of enactment. The purpose of this limited extension is to ensure that, with respect to such already marketed drugs, exclusivity remains available if the Secretary determines there is a continuing need for additional information relating to the use of such drugs that may promote health benefits in the pediatric population. This is applicable only to drugs already included on the list under subsection (b) as of January 1, 2002. The Secretary will not list any additional drugs under Section 505A(b) after January 1, 2002. These drugs will be eligible for the applicable 6-month time extension if the requested studies satisfy all requirements of the section.

The conferees expect the Secretary to consult with experts in pediatric research to develop the list of drugs under subsection (b), and to set priorities for studies on these drugs. Such experts should include representatives from the American Academy of Pediatrics, the Pediatric Pharmacology Re-

search Unit (PPRU) Network, and the U.S. Pharmacopoeia. The conferees note particularly the excellent efforts of NIH, especially through the PPRU Network, which will contribute significantly to this effort.

The conference agreement also requires that a study be conducted on the program, by January 1, 2001, that reviews all aspects of the program, including its impact on the price and availability of drugs and the availability of generic drugs.

With respect to any requested studies under this provision, the conferees intend that data collected prior to a request or requirement by the Secretary may be used, in addition to data collected after such request or requirement in satisfying the provisions of this section.

#### *Clinical investigations (Sec. 115)*

The conferees note that the requirement for the Secretary to review existing guidance and develop additional guidance, as appropriate, on the inclusion of women and minorities in clinical trials does not require participation of women and minorities in any particular trial. Furthermore, FDA is required to consult with the National Institutes of Health, which has developed inclusion guidelines for subjects in federally funded clinical research, and with representatives of the drug manufacturing industry, to ensure that ethical, scientific, and legal issues specific to privately funded clinical research are considered. The conferees expect FDA to set forth its general policy regarding: the inclusion of women and minorities in drug development research; population-specific analyses of clinical data and assessment of potential pharmacokinetic differences; and the conduct of specific additional studies in women or minorities, where appropriate.

#### *Content and review of applications (Sec. 119)*

The Secretary is required to meet with an applicant if the applicant makes a reasonable written request for a meeting for the purpose of reaching agreement on the design and size of studies, if the sponsor provides the information necessary to discuss and reach agreement on the design and size of such studies. The Secretary may refuse to meet if the sponsor does not provide such information or if the Secretary determines that such meeting is premature or would not be useful.

#### *Positron emission tomography (Sec. 121)*

The conference agreement provides for regulation of positron emission tomography (PET) drugs and replaces earlier industry guidance and regulatory standards for PET products promulgated by the FDA. The agreement provides that, until the Secretary establishes procedures under subsection (c)(1) described below, neither a New Drug Application (NDA) nor an Abbreviated New Drug Application (ANDA) is required by a licensed practitioner to produce a compounded PET product in accordance with United States Pharmacopoeia (USP) standards.

The agreement requires the Secretary, in two years to establish procedures for approving PET products, including compounded PET products, and good manufacturing practices for such products, taking account of relevant differences between commercial manufacturers and non-profit organizations and in consultation with patient groups, physicians, and others. The Secretary may not require NDAs or ANDAs for these products for four years (or two years after the procedures mentioned above are established).

A compounded PET drug, by definition, must be compounded pursuant to a valid pre-

scription order and in accordance with state law, among other requirements. A PET drug that fails to meet these requirements is not a "compounded PET drug" and therefore is not exempt from section 501(a)(2)(B) (21 USC 351(a)(2)(B)) or from subsections (b) and (j) of section 505 (21 USC 355). PET drugs that fail to meet the definition of a "compounded PET drug" shall be subject to the procedures and requirements established by the Secretary under subsection (c)(1).

#### *Application of Federal law to practice of pharmacy compounding (Sec. 127)*

The conference report includes provisions on pharmacy compounding that reflect the conferees' extensive work with the Food and Drug Administration and other interested parties to reach consensus. It is the intent of the conferees to ensure continued availability of compounded drug products as a component of individualized therapy, while limiting the scope of compounding so as to prevent manufacturing under the guise of compounding. Section 503A establishes parameters under which compounding is appropriate and lawful. The conditions set forth in Section 503A should be used by the state boards of pharmacy and medicine for proper regulation of pharmacy compounding in addition to existing state-specific regulations.

The conferees intend that, as defined in subparagraph (b)(2), copies of commercially available drug products do not include drug products in which the change from the commercially available drug product produces a "significant difference" for the particular patient. For example, the removal of a dye from a commercially available drug product for a particular patient who is allergic to such dye shall be presumed to be a "significant difference." The conferees expect that FDA and the courts will accord great deference to the licensed prescriber's judgement in determining whether the change produces a "significant difference." However, where it is readily apparent, based on the circumstances, the "significant difference" is a mere pretext to allow compounding of products that are essentially copies of commercially available products, such compounding would be considered copying of commercially available products and would not qualify for the compounding exemptions if it is done regularly or in inordinate amounts. Such circumstances may include, for example, instances in which minor changes in strength (such as from .08% to .09% are made that are not known to be significant or instances in which the prescribing physician is receiving financial remuneration or other financial incentives to write prescription for compounded products.

The conferees also expect that the Secretary will develop the list of bulk drug substances described in subsection (b)(1)(A)(i)(III) within one year from the date of enactment. It is the intent of the conferees that the criteria used to develop the list of bulk drug substances and the list itself are to be developed in consultation with the United States Pharmacopoeia. The conferees further intend that where evidence relating to an approval under Section 505 does not exist, the Secretary shall consider other criteria. Finally, the conferees intend that after this list is published, organizations may petition the FDA for inclusion of additional substances on the aforementioned list.

The memorandum of understanding described in Paragraph (b)(3)(B)(i) shall provide guidance on the meaning of inordinate amounts, including any circumstances under which the compounding of drug products for

interstate shipment in excess of 5 percent of total prescription order would be included in a "safe harbor" of interstate shipments of compounded products that shall not be deemed inordinate.

As stated in paragraph (e), nothing in Section 503A is intended to change or otherwise affect current law with respect to radiopharmaceuticals, including PET drugs. Further, as stated in paragraph (f), the term compounding does not include mixing reconstituting or other such acts that are performed in accordance with directions contained in approved labeling provided by the product's manufacturer and other manufacturer directions consistent with that labeling. Nothing in this provision is intended to change or otherwise affect the Act with respect to reconstitution or other similar processing that is done pursuant to a manufacturer's approved labeling, and other directions from such manufacturer that are consistent with that labeling. In general, such practices, as performed by a licensed practitioner for an identified individual patient, are appropriately regulated by state boards of pharmacy. The conferees intend that facilities required to register with the FDA, including those which are engaged in non-patient specific compounding and reconstitution activities, are appropriately regulated under the Federal Food, Drug and Cosmetic Act.

Finally, with regard to the effective date described in paragraph (b), the conferees expect the FDA to work diligently to consult with necessary parties to promulgate the required regulations and lists. Nothing in paragraph (b) is intended to abrogate the Secretary's responsibility to promulgate such regulations through the notice and comment rulemaking process.

#### *Reauthorization of the Clinical Pharmacology Program (Sec. 128)*

The conference agreement extends through fiscal year 2002 the authorization of appropriations of the Clinical Pharmacology Training Program, a program originally authorized under section 2(b) of P.L. 102-222. Nothing in this section of the agreement prohibits the Secretary from continuing the awarding of grants to the original and current grantees. The conferees strongly recommend that the Secretary continue the development of the clinical pharmacology programs at the colleges and universities originally selected to participate in the program.

#### *Regulations for sunscreen products (Sec. 129)*

The conference agreement includes a provision requiring FDA to continue diligently with its work to complete its rulemaking process on sunscreen products and to issue regulations within 18 months. The conferees recognize that various technical and scientific issues may take longer to resolve than other aspects of the rulemaking. The conferees do not intend that all regulation in this area be complete or comprehensive by a specified date.

#### *TITLE II—IMPROVING REGULATION OF DEVICES Scope of review (Sec. 205)*

The conference agreement addresses the issue of regulatory burden by ensuring that the impact of the Secretary's necessary review, approval, and oversight functions is not inappropriate. This assurance is achieved by requiring the Secretary to consider, in consultation with an applicant for device approval, the method for evaluating the device's effectiveness that would be appropriate, least burdensome, and reasonably likely to result in the device's approval. The conferees believe that this language is nec-

essary to and consistent with improving communications between the FDA and regulated persons, increasing regulatory efficiency, and decreasing the length of product review and approval.

#### *Premature notification (Sec. 206)*

The conference agreement exempts class I devices from premarket notification under section 510(k), except those types that present a potential unreasonable risk of illness or injury, or that are of substantial importance in preventing impairment of human health. The agreement also requires the Secretary to publish a notice listing the types of class II devices that are exempt from premarket notification. The Secretary must publish this initial list within 60 days. Thereafter, class II devices may be exempted by the Secretary on the Secretary's own initiative or through a petition process. The agreement provides that the Secretary must respond to any such petition within 180 days or the petition will be deemed granted.

The conferees do not intend by this provision that the Secretary should up-classify low-risk class I device in order to avoid exempting them. The conferees believe the appropriate exemption of class I and certain class II devices will allow the Secretary to expend limited premarket review resources on potentially risky and technologically advanced devices. Focusing resources in this manner will ensure the public continues to be adequately protected and will still benefit from the earlier availability of new products.

#### *Accredited party review (Sec. 210)*

The conference agreement makes modifications to the House and Senate provisions establishing the process by which the Secretary will accredit person to review and initially classify 510(k) devices. The agreement's provisions relating to the scope and the duration of the pilot program specify that an accredited person may not review a class III device, a class II device that is permanently implantable, life-sustaining or life-supporting, or a class II device for which clinical data are required. The latter category is limited in size to not more than six percent of all 510(k) submissions. In addition, the agreement provides for the termination of the pilot program after the Secretary has met specified targets for inclusion of eligible devices.

#### *Reports (Sec. 213)*

The conference agreement amends Section 519 of the Federal Food, Drug and Cosmetic Act to reduce the reporting requirements for device distributors. Manufacturers and importers, however, are required to comply with the existing requirements for medical device reporting. The amendment to section 519(a)(9) requires distributors to keep records and make them available to the Secretary on request. Because distributors will no longer be submitting reports to the Secretary, copies of reports would also not be sent to the manufacturers. This is not intended to provide the FDA with any new statutory authority to require distributors to keep additional records; it merely clarifies that existing record keeping requirements of section 519(a) continue to apply. This provision also removes the registration, listing, and reporting requirements for distributors under section 510. Since user facilities and manufacturers submit medical device reports to the FDA, there is no need for additional reporting by distributors. The FDA is urged to allow all record keeping, including distributor record keeping, to be accomplished through either electronic means or written documentation. The FDA is also urged to re-

view its current regulations on distributor record keeping (21 C.F.R. §804.35(b)) to provide that distributors need only keep records of complaints for six years from the date a complaint is received by the distributor, consistent with the longest statutes of limitations under State tort laws. Currently, FDA regulations require distributors to keep records for two years from the date of the record of complaint or the expected life of the device, whichever is greater. It is the intent of the conferees to simplify these requirements, since distributors, unlike manufacturers, are not able to determine the expected life of a device. Since these records will be kept by manufacturers as well, it is unnecessarily burdensome for distributors to keep these records for other than a fixed period of time.

The conferees expect the FDA to modify its regulations under Sec. 519(f) to ensure that the reports under this section are not required from any manufacturer, importer, or distributor who also is regulated and required to make such reports under the Radiation Control for Health and Safety Act of 1968 (21 U.S.C. 36011).

#### *Practice of medicine (Sec. 214)*

The conference agreement includes a provision intended by the conferees to emphasize that the FDA should not interfere in the practice of medicine. Specifically, the conferees note that the off-label use of a medical device by a physician using his or her best medical judgment in determining how and when to use the medical product for the care of a particular patient is not the province of the FDA. It is the intent of the conferees that this provision not be construed to affect medical professional liability.

#### *TITLE III—IMPROVING REGULATION OF FOOD Flexibility for regulations regarding claims (Sec. 301)*

The conference agreement clarifies the parameters within which the Secretary may use the interim final rulemaking authority established under this section. This authority enables the Secretary to make proposed regulations on claims effective upon publication, pending consideration of public comment and publication of a final regulation. The conferees' clarifying language emphasizes that this authority may be used when the Secretary determines that it is necessary to enable the Secretary to improve consumer access to important dietary information and to ban or modify a claim in a prompt fashion. The conferees' intent in creating this expedited rulemaking authority for health and nutrient content claims is that it be used primarily to expedite the review of petitions for health and nutrient content claims based on authoritative statements.

#### *Health and nutrient content claims (Secs. 303, 304)*

The conference agreement makes streamlined procedures available for the Secretary to permit more scientifically sound nutrition information to be provided to consumers through health and nutrient content claims. This process is triggered by authoritative statements of entities such as the National Institutes of Health (NIH) and the Centers for Disease Control and Prevention (CDC), and the National Academy of Sciences (NAS). Although the provision specifically permits claims to be made on the basis of a statement produced by subsidiaries of NAS, the conferees intend that the lack of similar language with respect to entities such as NIH and CDC be interpreted as a reflection of the desire of the conferees that statements issued by entities such as NIH

and CDC reflect consensus within those institutions. The agreement makes minor modifications to the House provisions on health and nutrient content claims to expedite the process by which such claims are processed. As part of the submissions to the Secretary for health claims based on authoritative statements, a balanced representation of the scientific literature may include a bibliography of such literature.

*Disclosure of irradiation (Sec. 306)*

The conference agreement ensures that no existing provision of the Federal Food Drug and Cosmetic Act will be considered to require a separate radiation disclosure statement that is more prominent than the declaration of ingredients on the food label. To ensure the intended effect of this provision, the conferees direct the Secretary promptly to publish for public comment proposed amendments to current regulations relating to the labeling of foods treated with ionizing radiation. The conferees expect final regulations to be issued not more than 12 months after the date of enactment of this measure. The public comment process should be utilized by the Secretary to provide an opportunity to comment on whether the regulations should be amended to revise the prescribed nomenclature for the labeling of irradiated foods and on whether such labeling requirements should expire at a specified date in the future. The conferees intend for any required disclosure to be of a type and character such that it would not be perceived to be a warning or give rise to inappropriate consumer anxiety.

*Food contact substances (Sec. 309)*

The conference agreement establishes a notification process for the regulation of components of food packaging, known as food contact substances, which is intended to expedite authorization of the marketing of a food contact substance except where the Secretary determines that submission and review of a food additive petition is necessary to provide adequate determination of safety. The agreement also authorizes appropriations to finance the costs of the new notification process. To protect the Agency from having to reallocate resources within CFSAN to meet the costs of implementation, the agreement provides that implementation is to be triggered only when the FDA receives an appropriation sufficient to fund the program. The conferees strongly encourage the House and Senate to appropriate the funds authorized. The conferees also urge the Committees of jurisdiction, when reauthorizing the notification program, to reevaluate fully its operational effectiveness, the appropriateness of its timeframes, the adequacy of funding, and its protection of the public health.

On the subject of food contact substances, the conferees wish to commend the FDA and the Environmental Protection Agency (EPA) for developing an Administration policy on the question of returning from EPA to FDA regulatory authority over antimicrobials used as food contact substances. This policy addresses the uncertainty unintentionally created by the Food Quality Protection Act of 1996 (FQPA) over the authority for regulating antimicrobials used as food contact substances. Although the legislative language effecting this policy was considered by the conferees to be outside the scope of this conference, the conferees acknowledge the significant need for this change and urge FDA and EPA to continue to work with the Congress to identify and develop an appropriate and expeditious vehicle for action on

this matter. In the interim, the conferees urge the agencies not to delay active review of pending petitions and the pursuit of the most immediate means to achieve resolution of this jurisdictional issue.

TITLE IV—GENERAL PROVISIONS

*Dissemination of treatment information (Sec. 401)*

The conference agreement's inclusion of this section is intended to provide that health care practitioners can obtain important scientific information about uses that are not included in the approved labeling of drugs, biological products, and devices. The conferees also wish to encourage that these new uses be included on the product label. Therefore, the agreement includes strong incentives to conduct the research needed and file a supplemental application for such uses. A manufacturer who seeks to disseminate information about a new use must either certify that it will file a supplemental application or must submit a proposed protocol and schedule for conducting the necessary studies and a certification that a supplemental application will be filed.

Although the conferees intend to ensure that the research is undertaken to get new uses on product labels, the conferees also recognize that there may be limited circumstances when it is appropriate to exempt a manufacturer from the requirement to file a supplemental application. In making the determination of whether to grant an exemption pursuant to subsection (d)(2), the Secretary may consider, among other factors, whether: the new use meets the requirements of section 186(t)(2)(B) of the Social Security Act; a medical specialty society that is represented in or recognized by the Council of Medical Specialty Societies (or is a subspecialty of such society) or is recognized by the American Osteopathic Association, has found that the new use is consistent with sound medical practice; the new use is described in a recommendation or medical practice guideline of a Federal health agency, including the National Institutes of Health, the Agency for Health Care Policy Research and the Centers for Disease Control and Prevention of the Department of Health and Human Services; the new use is described in one of three compendia: The U.S. Pharmacopoeia-Drug Information, the American Medical Association Drug Evaluation, or the American Hospital Association Formulary Service Drug Information; the new use involves a combination of products of more than one sponsor of a new drug application, a biological license application, a device premarket notification, or a device premarket approval application; or the patent status of the product.

The conferees recognize that there may be cases where the size of the patient population may be cause for the Secretary to determine that a supplemental application should not be filed. However, this is intended to be the exception, rather than the rule, in the case of populations suffering from orphan or rare disorders. For many years, this Congress has sought to encourage research into orphan diseases and the approval of innovative drugs for their treatment. The Secretary should examine very carefully whether an exemption from filing a supplemental application might hinder such research and recognize the vital importance of encouraging application for new drugs and new drug uses intended to treat rare disorders.

*Expanded access to investigational therapies and diagnostics (Sec. 402)*

The conference report provides statutory direction to expand access programs and em-

phasizes that opportunities to participate in expanded access programs are available to every individual with a life-threatening or seriously debilitating illness for which there is not an effective, approved therapy. The conferees note that they purposely used broad language in this section relating to "serious" conditions, without attempting to define them, in order to permit wide flexibility in implementation. Illnesses that do not cause death, or imminent death, can nonetheless destroy the lives of both patients and their families. The conferees therefore intend that the seriousness of an illness be given broad consideration, to take into account all of the circumstances involved.

Currently, Federal law allows drug companies to make experimental drugs available, under specific circumstances, to seriously and terminally ill patients. However, companies are often reluctant to do so because they fear that inclusion of data on such very ill patients will jeopardize the approval of their product because these patients' medical progress on any therapy may conflict with or be inconsistent with data from patients in the clinical studies. The conferees request that the FDA evaluate ways to address this problem, particularly for terminal patients who have failed existing approved therapies.

*Information system (Sec. 407)*

The conferees intend that the information system shall provide access to the information by the applicant under conditions set by the Secretary, except that access shall not be provided under any particular form of information system to any applicant until appropriate safeguards are in place to ensure that integrity and confidentiality of the information for which access is provided.

*Education and training (Sec. 408)*

The conference agreement authorizes the Centers of the FDA that conduct intramural research to provide fellowships and training to appropriate undergraduate, pre-doctoral, and/or post-doctoral candidates. In the past, FDA's Centers provided for a limited number of scientific training positions through Full Time Equivalent programs or interagency agreements with other federal agencies which have the statutory authority to hire trainees through third parties. However, many of the benefits of the training program have been reduced because FDA has not had specific direct authority to conduct and support them. In light of the additional overhead costs, reduced training flexibility, increased paperwork, and hiring delays that have resulted, it is increasingly difficult and impractical for FDA to hire trainees as FTE Service Fellows. As a result, the Intramural Research and Training Authority authorized here is intended to provide the FDA the authority to conduct and support directly the selection and training of fellows, allow more efficient use of appropriated funds by reducing overhead and other costs, and permit the training of such candidates as non-FTE positions. The conference agreement also provides similar authority for the Centers for Disease Control and Prevention.

*Centers for education and research on therapeutics (Sec. 409)*

The conference agreement establishes a demonstration program to conduct research and increase awareness of new products and ways to improve their effective use, and to increase awareness of risks of both new uses and combinations of therapies. In carrying out this demonstration program, the Secretary is directed to act through the Agency

for Health Care Policy and Research (AHCPR) in consultation with the FDA Commissioner. The conferees designated AHCPR as the lead agency because of its expertise in the evaluation of the effectiveness of clinical care, its non-regulatory role, and its close working relationship with the health care community in the improvement of the quality of care. Accordingly, this section establishes a new Section 928 in Title IX of the Public Health Service Act, the authorizing statute for AHCPR.

To ensure appropriate coordination and to avoid unnecessary duplication, AHCPR is required to consult closely with the FDA in the development and operation of this demonstration program. The conferees expanded the focus of this demonstration to include ways to improve the effective use of drugs, biological products, and devices as well as risks of new combinations of such products and directed that the clinical information gained in the project would be provided to consumers as well as health care practitioners and insurers. Finally, the conferees direct AHCPR also to consider the appropriate use of products in meeting the purposes of this section.

#### *Environmental impact review (Sec. 411)*

The conferees believe that FDA's new procedures implementing the National Environmental Policy Act (NEPA) appropriately eliminate unnecessary paperwork and delays associated with prior agency practices. Section 411 makes clear that an environmental impact statement (EIS) prepared in accordance with those regulations will meet the requirements of NEPA. The conferees do not intend this section to preclude judicial review of EISs. The conferees understand that the FDA may modify its regulations periodically, in consultation with the Council on Environmental Quality and the FDA's authorizing committees, as new circumstances or information warrants.

Because the Clean Air Act authorizes production of limited quantities of Class I and Class II substances for use in medical devices, there will be a continuing, but limited, supply of these substances. The EPA shall not dictate, promote or otherwise encourage a policy preference for disposal by incineration of the contents of metered-dose inhalers, but instead allow such contents to be recaptured, recycled or reused consistent with section 608(a)(3) of the Clean Air Act until such time that Congress conducts oversight hearings into the issue.

#### *National uniformity for nonprescription drugs and cosmetics (Sec. 412)*

##### *Confidentiality of OTC company self-audits*

Public policy should encourage drug manufacturers to conduct audits of their activities to candidly alert management to potential problems so that they can be addressed quickly and effectively. If FDA were to assert routine access to these audits, it would create serious disincentives to conducting appropriate audits and preparing thorough reports of the results. FDA already has a policy of not ordinarily requesting audit reports, which is set forth in compliance policy guide (#7151.02, Sec. 130.300) that applies to prescription drug firms. It is expected that OTC drug firms would be subject to the same compliance policy guide. Thus, during routine inspections of OTC drug establishments, FDA would not be expected to request or to review or copy reports and records that result from the firm's own audits and inspections of its operations to assure compliance with applicable FDA requirements such as good manufacturing practice (GMP) regula-

tions. FDA would reserve the right to review such audits in certain limited circumstances as outlined in the compliance guide.

##### *OTC and cosmetics inspection*

The conferees intend that FDA exercise its new records inspection authority fairly and carefully, especially with regard to inspections at facilities that manufacture products that are both cosmetics and over-the-counter drugs. Cosmetic products that are also OTC drugs will, under the provisions of this bill, benefit from full national uniformity relating to all regulatory requirements, including those associated with ingredients, labeling, and packaging. Therefore, under these provisions, manufacturers of such OTC products will be subject to records inspection by FDA. The conferees want to make clear that any records inspection applies only to those products for which there is full national uniformity. This new records inspection authority applies only to products determined to be over-the-counter drugs. It does not apply to products that are solely cosmetics.

In the case of an inspection at a facility which deals both with cosmetic products that are OTC drugs and those that are not, FDA inspectors do not have access to any records relating to the cosmetic products. Further, the conferees want to make clear that there is no records inspection authority under these provisions for facilities dealing exclusively with cosmetics.

Finally, the conferees expect that FDA will provide sufficient time and guidance to the over-the-counter drug industry prior to initiating any program of records inspection and in the early stages of implementing this new requirement.

##### *Effect of national uniformity on state enforcement "little FTC" laws*

All states have laws prohibiting false and misleading advertising, modeled on the Federal Trade Commission Act. These laws have been applied to prohibit unsubstantiated claims for nonprescription drugs and cosmetics, and to require corrective advertising. This provision is not intended to preempt the application of these laws under such circumstances.

The Conference Committee intends to make clear that "Little FTC" laws, as they have historically been written and applied, are not preempted. The scope of national uniformity is modified to only apply to state requirements that relate to labeling and packaging or, if they go beyond labeling and packaging, to requirements relating to warnings. Thus, advertising issues relating to claims substantiation, fair balance, and misleading or deceptive claims are outside the scope of preemption.

##### *Effect of national uniformity on state food labeling laws*

This provision is not intended to preempt or prohibit States from regulating the labeling of food which derives from animals treated with non-prescription drugs. Nor are these provisions intended to void State regulations on the use of these drugs.

##### *Product classification (Sec. 416)*

Subsections (b) and (c) have been amended to make clear that FDA may only modify product classifications for public health reasons based on scientific information.

TOM BLILEY,  
MICHAEL BILIRAKIS,  
JOE BARTON,  
JAMES GREENWOOD,  
RICHARD BARR,  
ED WHITFIELD,  
JOHN D. DINGELL,

SHERROD BROWN,  
HENRY A. WAXMAN,  
RON KLING,

*Managers on the Part of the House.*

JIM JEFFERSON,  
DAN COATS,  
JUDD GREGG,  
BILL FRIST,  
MIKE DEWINE,  
EDWARD M. KENNEDY,  
CHRISTOPHER DODD,  
TOM HARKIN,  
BARBARA A. MIKULSKI,

*Managers on the Part of the Senate.*

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. UNDERWOOD (at the request of Mr. GEPHARDT) for today and the balance of the week, on account of official business.

Mr. YATES (at the request of Mr. GEPHARDT) for November 8 after 12 noon and November 9, on account of personal reasons.

## SENATE BILLS AND CONCURRENT RESOLUTION REFERRED

Bills and a concurrent resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 508. An act to provide for the relief of Mai Hoa "Jasmin" Salehi; to the Committee on the Judiciary.

S. 759. An act to amend the State Department Basic Authorities Act of 1956 to require the Secretary of State to submit an annual report to Congress concerning diplomatic immunity; to the Committee on International Relations.

S. 857. An act for the relief of Roma Salobrit; to the Committee on the Judiciary.

S. 1189. An act to increase the criminal penalties for assaulting or threatening Federal judges, their family members, and other public servants, and for other purposes; to the Committee on the Judiciary.

S. 1304. An act for the relief of Belinda McGregor; to the Committee on the Judiciary.

S. 1487. An act to establish a National Voluntary Mutual Reunion Registry; to the Committee on Ways and Means.

S. 1507. An act to amend the National Defense Authorization Act for Fiscal Year 1998 to make certain technical corrections; to the Committee on National Security.

S. Con. Res. 58. Concurrent resolution expressing the concern of Congress over Russia's newly passed religion law; to the Committee on International Relations.

## BILL AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. THOMAS, from the Committee on House Oversight reported that that committee did on the following dates present to the President, for his approval, a bill and a joint resolution of the House of the following titles:

On November 8, 1997:

H.R. 2264. An act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related

agencies for the fiscal year ending September 30, 1998, and for other purposes.

On November 9, 1997:

H.J. Res. 104. Joint resolution making further continuing appropriations for the fiscal year 1998, and for other purposes.

#### ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1747. An act to amend the John F. Kennedy Center Act to authorize the design and construction of additions to the parking garage and certain site improvements, and for other purposes.

H.R. 1787. An act to assist in the conservation of Asian elephants by supporting and providing financial resources for the conservation programs of nations within the range of Asian elephants and projects with demonstrated expertise in the conservation of Asian elephants.

H.R. 2731. An act for the relief of Roy Desmond Moser.

H.R. 2732. An act for the relief of John Andre Chalot.

H.J. Res. 104. Joint resolution making further continuing appropriations for the fiscal year 1998, and for other purposes.

#### SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 813. An act to amend chapter 91 of title 18, United States Code, to provide criminal penalties for theft and willful vandalism at national cemeteries.

S. 1377. An act to amend the act incorporating the American Legion to make a technical correction.

#### ADJOURNMENT

Mr. SOLOMON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 2 minutes a.m.), under its previous order, the House adjourned until Wednesday, November 12, 1997, at 12 noon.

#### EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

5818. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Corn Gluten; Exemption from the Requirement of a Tolerance [OPP-300505A; FRL-5750-3] (RIN: 2070-AB78) received November 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5819. A letter from the Assistant Secretary (Installations and Environment), Depart-

ment of the Navy, transmitting notification of intent to study a commercial or industrial type function performed by 45 or more civilian employees for possible outsourcing, pursuant to 10 U.S.C. 2304 nt.; to the Committee on National Security.

5820. A letter from the Assistant Secretary (Reserve Affairs), Department of Defense, transmitting a report on the progress of the study on the means of ensuring uniformity in provision of medical and dental care for members of reserve components, pursuant to Public Law 104-201, section 746(b) (110 Stat. 2602); to the Committee on National Security.

5821. A letter from the Assistant to the Board, Board of Governors of the Federal Reserve System, transmitting the Board's final rule—Reserve Requirements of Depository Institutions [Regulation D; Docket No. R-0980] received October 31, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

5822. A letter from the Director, Office of Rulemaking Coordination, Department of Energy, transmitting the Department's "Major" final rule—Energy Conservation Program for Consumer Products: Final Rule Regarding Energy Conservation Standards for Room Air Conditioners [Docket Nos. EE-RM-90-201 and EE-RM-93-801-RAC] (RIN: 1904-AA38) received November 8, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5823. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Florida [FL-70-1-9738a; FRL-5920-3] received November 7, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5824. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, South Coast Air Quality Management District [CA 034-0048; FRL-5917-5] received November 7, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5825. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, San Diego County Air Pollution Control District, Ventura County Air Pollution Control District [CA 083-0053a; FRL-5911-4] received November 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5826. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Michigan: Final Authorization of Revisions to State Hazardous Waste Management Program [FRL-5918-8] received November 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5827. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Ambient Air Quality Surveillance for Lead [AD-FRL-5903-5] (RIN: 2060-AF71) received November 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5828. A letter from the Director, Office of Regulatory Management and Information,

Environmental Protection Agency, transmitting the Agency's final rule—Removal of Requirement in Gasoline Deposit Control Additives Rule Regarding the Identification of the Oxygenate Content of Transferred Gasoline [FRL-5917-9] received November 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5829. A letter from the AMD—Performance Evaluation and RECORDS Management, Federal Communications Commission, transmitting the Commission's final rule—Amendment of the Commission's Rules to Establish a Radio Astronomy Coordination Zone in Puerto Rico [ET Docket No. 96-2, RM-8165] received November 8, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5830. A letter from the AMD—Performance Evaluation and RECORDS Management, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Part 15 of the Commission's Rules to permit operation of biomedical telemetry devices on VHF TV channels 7-13 and on UHF TV channels 14-46 [ET Docket No. 95-177] received November 8, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5831. A letter from the Director, Regulations Policy and Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Secondary Direct Food Additives Permitted in Food for Human Consumption; Milk-Clotting Enzymes [Docket No. 93F-0461] received November 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5832. A letter from the Chairman, Nuclear Regulatory Commission, transmitting a report on the nondisclosure of safeguards information for the quarter ending September 30, 1997, pursuant to 42 U.S.C. 2167(e); to the Committee on Commerce.

5833. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Army's Proposed Letter(s) of Offer and Acceptance (LOA) to Egypt for defense articles and services (Transmittal No. 98-21), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

5834. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Navy's Proposed Letter(s) of Offer and Acceptance (LOA) to Korea for defense articles and services (Transmittal No. 98-20), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

5835. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance (LOA) to Taipei Economic and Cultural Representative Office (TECRO) in the United States for defense articles and services (Transmittal No. 98-18), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

5836. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance (LOA) to Taipei Economic and Cultural Representative Office in the United States for defense articles and services (Transmittal No. 98-16), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

5837. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Air Force's proposed Letter(s) of Offer

and Acceptance (LOA) to Portugal for defense articles and services (Transmittal No. 98-13), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

5838. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Army's Proposed Letter(s) of Offer and Acceptance (LOA) to Portugal for defense articles and services (Transmittal No. 98-11), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

5839. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Army's Proposed Letter(s) of Offer and Acceptance (LOA) to Turkey for defense articles and services (Transmittal No. 98-09), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

5840. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Army's Proposed Letter(s) of Offer and Acceptance (LOA) to Greece for defense articles and services (Transmittal No. 98-12), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

5841. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Army's Proposed Letter(s) of Offer and Acceptance (LOA) to Greece for defense articles and services (Transmittal No. 98-08), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

5842. A letter from the Director, Defense Security Assistance Agency, transmitting a report of enhancement or upgrade of sensitivity of technology or capability for Saudi Arabia (Transmittal No. A-98), pursuant to 22 U.S.C. 2776(b)(5)(A); to the Committee on International Relations.

5843. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed manufacturing license agreement for production of major military equipment with Canada (Transmittal No. DTC-69-97), pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

5844. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed manufacturing license agreement for production of major military equipment with Germany (Transmittal No. DTC-133-97), pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

5845. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed manufacturing license agreement for production of major military equipment with the United Kingdom (Transmittal No. DTC-132-97), pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

5846. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially to Germany and Sweden (Transmittal No. DTC-112-97), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

5847. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially to Singapore (Transmittal No. DTC-113-97), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

5848. A letter from the Assistant Secretary for Legislative Affairs, Department of State,

transmitting certification of a proposed license for the export of defense articles or defense services sold commercially to Israel (Transmittal No. DTC-97-97), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

5849. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially to Japan (Transmittal No. DTC-98-97), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

5850. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially to Kuwait (Transmittal No. DTC-114-97), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

5851. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially to the United Kingdom (Transmittal No. DTC-117-97), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

5852. A communication from the President of the United States, transmitting the bi-monthly report on progress toward a negotiated settlement of the Cyprus question, including any relevant reports from the Secretary General of the United Nations, pursuant to 22 U.S.C. 2373(c); to the Committee on International Relations.

5853. A letter from the Executive Director, Committee for Purchase from People Who Are Blind or Severely Disabled, transmitting the Committee's final rule—Additions to the Procurement List [97-019] received November 9, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

5854. A letter from the Chairman, Defense Nuclear Facilities Safety Board, transmitting the FY 1997 report pursuant to the Federal Managers' Financial Integrity Act, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

5855. A letter from the Chairman, District of Columbia Financial Responsibility and Management Assistance Authority, transmitting the annual report for fiscal year 1997, pursuant to Public Law 104-8; to the Committee on Government Reform and Oversight.

5856. A letter from the Chairman and Chief Executive Officer, Farm Credit Administration, transmitting the semiannual report on the activities of the Office of Inspector General for the period April 1, 1997, through September 30, 1997; and the semiannual management report for the same period, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

5857. A letter from the Director, Federal Mediation and Conciliation Service, transmitting the 1997 annual report in compliance with the Inspector General Act Amendments of 1988, pursuant to Public Law 100-504, section 104(a) (102 Stat. 2525); to the Committee on Government Reform and Oversight.

5858. A letter from the Executive Director, Federal Retirement Thrift Investment Board, transmitting the 1997 annual report in compliance with the Inspector General Act Amendments of 1988, pursuant to Public Law 100-504, section 104(a) (102 Stat. 2525); to the Committee on Government Reform and Oversight.

5859. A letter from the President, Institute of American Indian Arts, transmitting the FY 1997 report pursuant to the Federal Managers' Financial Integrity Act, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

5860. A letter from the Director, National Gallery of Art, transmitting a consolidated report on audit and investigative coverage required by the Inspector General Act of 1978, as amended, and the Federal Managers' Financial Integrity Act, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

5861. A letter from the Director, Office of Government Ethics, transmitting the 1997 annual consolidated report in compliance with the Inspector General Act Amendments of 1988 and the Federal Managers' Financial Integrity Act, pursuant to Public Law 100-504, section 104(a) (102 Stat. 2525); to the Committee on Government Reform and Oversight.

5862. A letter from the Independent Counsel, Office of Independent Counsel, transmitting the 1997 annual report in compliance with the Inspector General Act Amendments of 1988, pursuant to Public Law 100-504, section 104(a) (102 Stat. 2525); to the Committee on Government Reform and Oversight.

5863. A letter from the Director, The Morris K. Udall Foundation, transmitting the annual report pursuant to the Federal Managers' Financial Integrity Act and the Inspector General Act for the year ending September 30, 1997, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

5864. A letter from the Acting Director, The Woodrow Wilson Center, transmitting a consolidated report on audit and investigative coverage required by the Inspector General Act of 1978, as amended, and the Federal Managers' Financial Integrity Act, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

5865. A letter from the President and Chief Executive Officer, United States Enrichment Corporation, transmitting a consolidated report on audit and investigative coverage required by the Inspector General Act of 1978, as amended, and the Federal Managers' Financial Integrity Act covering the year ended September 30, 1997, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

5866. A letter from the President, United States Institute of Peace, transmitting the strategic plan for the period FY 1997 through 2002, pursuant to Public Law 103-62; to the Committee on Government Reform and Oversight.

5867. A letter from the Assistant Secretary, Land and Minerals Management, Department of the Interior, transmitting the Department's final rule—Patent Preparation and Issuance [WO-350-1220-00-24 1A] (RIN: 1004-AC-88) received November 4, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5868. A letter from the Deputy Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Insurance Coverage Provisions for Observer Contractors under the North Pacific Interim Groundfish Observer Program [Docket No. 960717195-7255-03; I.D. 100897E] (RIN: 0648-AI95) received November 9, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5869. A letter from the Assistant Secretary for Employment Standards, Department of Labor, transmitting the Department's final rule—Longshore Act Civil Money Penalties Adjustment (RIN: 1215-AB17) received November 8, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

5870. A letter from the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, transmitting the Administration's final rule—Temporary Exemption from Chemical Registration for Distributors of Pseudoephedrine and Phenylpropanolamine Products [DEA Number 1681] (RIN: 1117-AA46) received November 4, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

5871. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval of Modifications to Michigan's Assumed Program to Administer the Section 404 Permitting Program Resulting from the Reorganization of the Michigan Environmental Agencies [FRL-5918-7] received November 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5872. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval of Modifications to Michigan's Approved Program to Administer the National Pollutant Discharge Elimination System Permitting Program Resulting from the Reorganization of the Michigan Environmental Agencies [FRL-5918-6] received November 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5873. A letter from the Director, Office of Regulations Management, Department of Veterans Affairs, transmitting the Department's final rule—Grants to States for Construction or Acquisition of State Home Facilities (RIN: 2900-AI84) received November 9, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

5874. A letter from the Regulatory Policy Officer, Bureau of Alcohol, Tobacco and Firearms, transmitting the Bureau's final rule—Mendocino Ridge Viticultural Area (RIN: 1512-AA07) received October 30, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5875. A letter from the Assistant Secretary for Employment and Training, Department of Labor, transmitting the Department's final rule—Unemployment Insurance Program Letter [Nos. 41-97 and 44-97] received November 4, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5876. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Material Limitation on Surviving Spouse's Right to Income [Notice 97-63] received November 8, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5877. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Test of Bankruptcy Appeals Process [Announcement 97-111] received November 8, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BLILEY: Committee of Conference. Conference report on S. 830. An act to amend the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act to improve the regulation of food, drugs, devices, and biological products, and for other purposes (Rept. 105-399). Ordered to be printed.

Mr. DIAZ-BALART: Committee on Rules. House Resolution 319. Resolution providing for consideration of the bill (S. 738) to reform the statutes relating to Amtrak, and for other purposes (Rept. 105-400). Referred to the House Calendar.

## MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

225. The SPEAKER presented a memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to House Resolution No. 295 memorializing the Citizens' Committee of the United States Postal Service to consider and recommend to the United States Postal Service Board of Governors the issuance of a commemorative stamp honoring Richard Humphreys, Quaker, goldsmith and philanthropist, on the 160th Anniversary of the founding of Cheyney University of Pennsylvania; to the Committee on Government Reform and Oversight.

226. Also, a memorial of the Legislature of the State of California, relative to Assembly Joint Resolution 38 expressing support for a full, fair, and complete investigation of legal and ethical violations during the 1996 campaigns, and memorializing the President and the Congress to condemn all prejudice against Asian and Pacific Islander Americans, and to publicly support political and civic participation by these persons throughout the United States; to the Committee on the Judiciary.

227. Also, a memorial of the Legislature of the State of California, relative to Assembly Joint Resolution 32 memorializing the President and Congress of the United States to recognize the sacrifices and services rendered to our country by the Hmong-Lao veterans who served in the special guerrilla units that were allied with, and operating in support of, the military forces of the United States during the Vietnam War by granting those veterans and their families full United States citizenship; to the Committee on the Judiciary.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of Rule X and clause 4 of Rule XXII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. HORN (for himself, Mrs. MALONEY of New York, Mr. BURTON of Indiana, and Mr. WAXMAN):

H.R. 2977. A bill to amend the Federal Advisory Committee Act to clarify public disclosure requirements that are applicable to the National Academy of Sciences and the National Academy of Public Administration; to the Committee on Government Reform and Oversight.

By Ms. VELAZQUEZ (for herself, Mr. GUTIERREZ, and Mr. SERRANO):

H.R. 2978. A bill to require the Secretary of the Treasury to mint coins in commemoration of all the brave and gallant Puerto Ricans in the 65th Infantry Regiment of the United States Army who fought in the Korean conflict; to the Committee on Banking and Financial Services.

By Mr. THOMAS:

H.R. 2979. A bill to authorize acquisition of certain real property for the Library of Congress, and for other purposes; to the Committee on House Oversight.

By Mr. ALLEN:

H.R. 2980. A bill to amend the Solid Waste Disposal Act to require a refund value for certain beverage containers, to provide resources for State pollution prevention and recycling programs, and for other purposes; to the Committee on Commerce.

By Mr. ALLEN (for himself and Mr. BALDACCI):

H.R. 2981. A bill to amend the Higher Education Act of 1965 relating to financial responsibility for refunds and during provisional certification and change of ownership; to the Committee on Education and the Workforce.

By Mr. GILMAN:

H.R. 2982. A bill to improve the quality of child care provided through Federal facilities and programs, and for other purposes; to the Committee on Government Reform and Oversight, and in addition to the Committees on House Oversight, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SHERMAN (for himself, Mr. FOX of Pennsylvania, Mr. PALLONE, Mr. VISLOSKEY, Mr. BONIOR, Ms. ESHOO, Mr. KENNEDY of Rhode Island, Mr. ROTHMAN, Mr. ROGAN, Mr. WEYGAND, Mr. RADANOVICH, Mr. MORAN of Virginia, Mr. KENNEDY of Massachusetts, and Mr. MARKEY):

H.R. 2983. A bill to promote long term stability in the Caucasus, deter renewed aggression, and facilitate the peaceful resolution of the Nagorno-Karabagh conflict; to the Committee on International Relations, and in addition to the Committee on Banking and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BARR of Georgia:

H.R. 2984. A bill to provide an exemption from the Gun-Free School Zones Act of 1990 for conduct that does not violate State or local law; to the Committee on the Judiciary.

By Mr. CARDIN (for himself, Mr. BUNNING of Kentucky, Mr. ENGLISH of Pennsylvania, Mr. ENSIGN, Mr. STARK, and Mr. WELLER):

H.R. 2985. A bill to amend the Immigration and Nationality Act to make certain aliens determined to be delinquent in the payment of child support inadmissible, deportable, and ineligible for naturalization, to authorize immigration officers to serve process in child support cases on aliens entering the United States, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. COLLINS:

H.R. 2986. A bill for the relief of the survivors of the 14 members of the Armed

Forces and the one United States civilian who were killed on April 14, 1994, when United States fighter aircraft mistakenly shot down 2 helicopters in Iraq; to the Committee on the Judiciary.

By Mr. DAVIS of Virginia (for himself and Mr. KUCINICH):

H.R. 2987. A bill to amend title 5, United States Code, to provide for appropriate overtime pay for National Weather Service forecasters performing essential services during severe weather events, and for other purposes; to the Committee on Government Reform and Oversight.

By Mr. DOOLITTLE:

H.R. 2988. A bill to facilitate the operation, maintenance, and upgrade of certain federally owned hydroelectric power generating facilities, to ensure the recovery of costs, and to improve the ability of the Federal Government to coordinate its generating and marketing of electricity with the non-Federalelectric utility industry; to the Committee on Resources, and in addition to the Committees on Commerce, and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ENSIGN:

H.R. 2989. A bill to direct the Secretary of the Interior to convey to the St. Jude's Ranch for Children, Nevada, approximately 40 acres of land in Las Vegas, Nevada, to be used for the development of facilities for the residential care and treatment of adjudicated girls; to the Committee on Resources.

By Mr. ENSIGN (for himself, Mr. RANGEL, Mr. LAZIO of New York, Mr. CHRISTENSEN, Mr. GIBBONS, Ms. LOFGREN, Mr. ENGLISH of Pennsylvania, Mr. BACHUS, Mr. RILEY, Mr. CALLAHAN, Mr. KENNEDY of Massachusetts, Mr. MICA, Mr. EVERETT, Mr. THOMPSON, Mr. HOUGHTON, Mr. WEYGAND, Mr. ADERHOLT, Mr. CARDIN, Mr. HILLIARD, Mr. CRAMER, Ms. DANNER, Ms. PELOSI, Mr. SKELTON, Mr. DIAZ-BALART, Mr. FILNER, Mr. FROST, Mr. CRAPO, Mr. ADAM SMITH of Washington, Mr. REYES, Mr. NEAL of Massachusetts, Ms. WOOLSEY, and Mr. KUCINICH):

H.R. 2990. A bill to amend the Internal Revenue Code of 1986 to increase the amount of low-income housing credits which may be allocated in each State, and to index such amount for inflation; to the Committee on Ways and Means.

By Ms. ESHOO (for herself and Mr. TAUZIN):

H.R. 2991. A bill to enhance electronic commerce by requiring agencies to use digital signatures, which are compatible with standards for such technology used in commerce and industry, to enable persons to submit Federal forms electronically, and for other purposes; to the Committee on Government Reform and Oversight, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GRAHAM (for himself, Mr. SAM JOHNSON, Mr. HILLEARY, Mr. INGLIS of South Carolina, Mr. WAMP, Mr. NORWOOD, Mr. BARTLETT of Maryland, Mr. TAYLOR of North Carolina, Mr. STUMP, Mr. HERGER, Mr. MILLER of Florida, Mr. WATTS of Oklahoma, Mr. ISTOOK, Mrs. LINDA SMITH of Wash-

ington, Mr. TALENT, Mr. THORBERRY, Mr. CHABOT, Mr. SPENCE, Mr. SANFORD, Mr. TIAHRT, Mr. KNOLLENBERG, Mrs. MYRIK, Mr. HEFLEY, Mr. SOLOMON, Mr. BARTON of Texas, Mr. PITTS, Ms. DUNN of Washington, Mr. SALMON, Mr. SHADEGG, Mr. LARGENT, Mr. BACHUS, Mr. BALLENGER, Mr. DICKEY, Mr. BLUNT, Mrs. EMERSON, Mr. LAHOOD, Mr. MCKEON, Mr. RADANOVICH, Mr. ROHRBACHER, Mr. COX of California, Mr. SENSENBRENNER, Mr. HUTCHINSON, Mr. HOSTETTLER, Mr. BOB SCHAFFER, Mr. PETERSON of Pennsylvania, Mr. SOUDER, Mr. MCINTOSH, Mr. SESSIONS, Mr. ROYCE, Mr. WELDON of Florida, and Mr. NETHERCUTT):

H.R. 2992. A bill to repeal the Goals 2000: Educate America Act and the National Skill Standards Act of 1994 to allow local areas to develop elementary and secondary education programs that meet their needs; to the Committee on Education and the Workforce.

By Mr. HEFLEY:

H.R. 2993. A bill to provide for the collection of fees for the making of motion pictures, television productions, and sound tracks in National Park System and National Wildlife Refuge System units, and for other purposes; to the Committee on Resources.

By Ms. HOOLEY of Oregon (for herself and Mr. DAVIS of Virginia):

H.R. 2994. A bill to provide for various capital investments in technology education in the United States; to the Committee on Education and the Workforce, and in addition to the Committees on Science, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. JOHNSON of Connecticut (for herself and Mrs. LOWEY):

H.R. 2995. A bill to amend the Internal Revenue Code of 1986 to allow tax-exempt organizations (other than governmental units) a credit against employment taxes in an amount equivalent to the work opportunity credit allowable to taxable employers, and for other purposes; to the Committee on Ways and Means.

By Mr. KENNEDY of Massachusetts:

H.R. 2996. A bill to amend the Securities Exchange Act of 1934 to revise the definition of limited partnership rollout transaction; to the Committee on Commerce.

By Mr. KENNEDY of Massachusetts (for himself, Mr. DELLUMS, Mr. KLECZKA, Mr. LAFALCE, Mr. FILNER, Mr. MCDERMOTT, Mr. BONIOR, Mr. TOWNS, Ms. SLAUGHTER, Mr. LEWIS of Georgia, Mr. JACKSON, Ms. VELAZQUEZ, Mr. MCGOVERN, Mr. BERMAN, Ms. PELOSI, Mr. OLVER, Mr. MARKEY, Mr. WAXMAN, Ms. NORTON, Ms. KILPATRICK, Mr. MEEHAN, Ms. ROYBAL-ALLARD, Mr. MILLER of California, Mrs. MALONEY of New York, Mr. GUTIERREZ, Mr. DELAHUNT, Ms. CARSON, Mr. MARTINEZ, Mrs. MEEK of Florida, Mr. HINCHEY, Mr. OWENS, Mr. TIERNEY, Mr. FATTAH, Mr. PAYNE, Mr. NEAL of Massachusetts, Mr. ACKERMAN, Ms. WATERS, Ms. BROWN of Florida, Mr. POMEROY, and Ms. HOOLEY of Oregon):

H.R. 2997. A bill to establish a commission on fairness in the workplace; to the Committee on Education and the Workforce.

By Mr. LEVIN (for himself and Mr. KILDEE):

H.R. 2998. A bill to amend the Internal Revenue Code of 1986 to exclude from gross in-

come certain amounts received as scholarships by an individual under the National Health Service Corps Scholarship Program; to the Committee on Ways and Means.

By Mr. LEVIN:

H.R. 2999. A bill to amend title XVIII and XIX of the Social Security Act to expand and clarify the requirements regarding advance directives in order to ensure that an individual's health care decisions are complied with, and for other purposes; to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. OXLEY (for himself, Mr. CONDIT, Mr. JOHN, Mr. BLILEY, Mr. FORD, Mr. UPTON, Mr. GREENWOOD, Mr. KLUG, Mr. MARTINEZ, Mr. GOODLING, Mr. TRAFICANT, Mr. TAUZIN, Mr. PETERSON of Minnesota, Mr. STENHOLM, Mr. GILLMOR, Mr. BISHOP, Mr. PAXON, Mr. SISISKY, Mr. LARGENT, Mr. BAESLER, Mr. BUYER, Mr. GOODE, Mr. FRELINGHUYSEN, Mr. BOYD, Mrs. EMERSON, Mr. CRAMER, Mr. BARRETT of Nebraska, Mr. HOLDEN, Mr. BURR of North Carolina, Mr. PICKETT, Mr. HEFLEY, Mr. MCINTYRE, Mr. DUNCAN, Mr. SANDLIN, Mr. PETERSON of Pennsylvania, and Mr. RUSH):

H.R. 3000. A bill to amend the Comprehensive Environmental, Response, Compensation, and Liability Act of 1980; to the Committee on Commerce, and in addition to the Committees on Transportation and Infrastructure, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. LOWEY (for herself, Mrs. JOHNSON of Connecticut, Mr. HOYER, Mrs. MORELLA, Mr. NADLER, Mr. STEARNS, Ms. DELAURO, Mr. LEACH, Mr. LEWIS of Georgia, Mr. WICKER, and Mr. CARDIN):

H.R. 3001. A bill to amend the Public Health Service Act to provide additional support for and to expand clinical research programs, and for other purposes; to the Committee on Commerce.

By Mrs. LOWEY:

H.R. 3002. A bill to expand the educational and work opportunities of welfare recipients under the program of block grants to States for temporary assistance for needy families; to the Committee on Ways and Means.

By Mr. MCCOLLUM (for himself, Mr. LEACH, Mr. LAFALCE, Mrs. ROUKEMA, Mr. BERREUTER, Mr. BAKER, Mr. BACHUS, Mr. KING of New York, Mr. ROYCE, Mr. EHRlich, Mr. BARR of Georgia, Mr. COOK, Mr. SESSIONS, Mr. HILL, and Mr. BONO):

H.R. 3003. A bill to amend the Federal Deposit Insurance Act and the Federal Credit Union Act to safeguard confidential banking and credit union information, and for other purposes; to the Committee on Banking and Financial Services.

By Mrs. MALONEY of New York (for herself, Mrs. MORELLA, and Mr. COBURN):

H.R. 3004. A bill to amend part E of title IV of the Social Security Act to require States to administer qualifying examinations to all State employees with new authority to make decisions regarding child welfare services, to expedite the permanent placement of foster children, to facilitate the placement of foster children in permanent kinship care arrangements, and to require State agencies,

in considering applications to adopt certain foster children, to give preference to applications of a foster parent or caretaker relative of the child; to the Committee on Ways and Means.

By Mrs. MALONEY of New York (for herself, Mr. DELLUMS, Mr. MANTON, and Mr. PETERSON of Minnesota):

H.R. 3005. A bill to amend part E of title IV of the Social Security Act to require States to have laws that would permit a parent who is chronically ill or near death to name a standby guardian for a minor child without surrendering parental rights; to the Committee on Ways and Means.

By Ms. MILLENDER-MCDONALD:

H.R. 3006. A bill to direct the Attorney General to provide a written opinion regarding the constitutionality of proposed state ballot initiatives, and for other purposes; to the Committee on the Judiciary.

By Mrs. MORELLA:

H.R. 3007. A bill to establish the Commission on the Advancement of Women in Science, Engineering, and Technology Development; to the Committee on Education and the Workforce, and in addition to the Committee on Science, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. NEUMANN:

H.R. 3008. A bill to amend title II of the Social Security Act to allow workers who attain age 65 after 1981 and before 1992 to choose either lump sum payments over four years totalling \$5,000 or an improved benefit computation formula under a new 10-year rule governing the transition to the changes in benefit computation rules enacted in the Social Security Amendments of 1977, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PALLONE (for himself, Mr. GILMAN, Mr. BROWN of Ohio, Mr. FOX of Pennsylvania, Ms. SANCHEZ, Mr. HORN, Ms. ESHOO, Mr. GREEN, Mr. FROST, Mr. ANDREWS, Mr. FILNER, Mr. ACKERMAN, Mr. WEXLER, Mr. BROWN of California, Mrs. MALONEY of New York, Mr. HASTINGS of Florida, Mr. PASCRELL, Mr. MASCARA, Mr. DAVIS of Illinois, Ms. MILLENDER-MCDONALD, Ms. CARSON, Mrs. CLAYTON, Mr. LAMPSON, Mr. NADLER, Ms. JACKSON-LEE, Mr. ROTHMAN, Mr. ENGEL, Mr. PAYNE, Mr. MCCOLLUM, Mr. SHERMAN, Mr. CRAMER, and Mrs. MORELLA):

H.R. 3009. A bill to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to establish standards for managed care plans; to the Committee on Commerce, and in addition to the Committees on Ways and Means, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PALLONE (for himself, Mr. SHERMAN, Mr. FOX of Pennsylvania, Mr. VISCLOSKEY, Mr. BONIOR, Ms. ESHOO, Mr. KENNEDY of Rhode Island, Mr. ROTHMAN, Mr. ROGAN, Mr. WEGAND, Mr. RADANOVICH, Mr. MARKEY, Mr. MORAN of Virginia, and Mr. KENNEDY of Massachusetts):

H.R. 3010. A bill to amend the Foreign Assistance Act of 1961 to target assistance to support the economic and political independence of the countries of the South Caucasus; to the Committee on International Relations, and in addition to the Committees on Ways and Means, and Banking and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PASCRELL:

H.R. 3011. A bill to amend the Internal Revenue Code of 1986 to exclude certain severance payment amounts from income; to the Committee on Ways and Means.

By Mr. POMEROY:

H.R. 3012. A bill to amend Public Law 89-108 to increase authorization levels for State and Indian tribal, municipal, rural, and industrial water supplies, to meet current and future water quantity and quality needs of the Red River Valley, to deauthorize certain project features and irrigation service areas, to enhance natural resources and fish and wildlife habitat, and for other purposes; to the Committee on Resources.

By Ms. PRYCE of Ohio (for herself, Mr. EWING, and Mr. GREENWOOD):

H.R. 3013. A bill to reduce the incidence of child abuse and neglect, and for other purposes; to the Committee on the Judiciary.

By Mr. RADANOVICH (for himself, Mr. BILBRAY, Ms. ESHOO, Mr. MILLER of California, Mr. ROGAN, Mr. LEWIS of California, Ms. PELOSI, Mr. POMBO, and Mr. FARR of California):

H.R. 3014. A bill to amend the Consolidated Omnibus Budget Reconciliation Act of 1985 to expand the number of county operated health insuring organizations authorized to enroll Medicaid beneficiaries; to the Committee on Commerce.

By Mr. SANDERS:

H.R. 3015. A bill to provide additional appropriations for certain nutrition programs; to the Committee on Appropriations.

By Mr. SANDERS (for himself, Mr. SHAYS, and Mr. DEFazio):

H.R. 3016. A bill to amend section 332 of the Communications Act of 1934 to preserve State and local authority to regulate the placement, construction, and modification of certain telecommunications facilities, and for other purposes; to the Committee on Commerce.

By Mr. SANDERS:

H.R. 3017. A bill calling for ratification of the United Nations Convention on the Rights of the Child; to the Committee on International Relations, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SCARBOROUGH (for himself and Mrs. THURMAN):

H.R. 3018. A bill to release the reversionary interests retained by the United States in four deeds that conveyed certain lands to the State of Florida so as to permit the State to sell, exchange, or otherwise dispose of the lands, and to provide for the conveyance of certain mineral interests of the United States in the lands to the State of Florida; to the Committee on Agriculture, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. LINDA SMITH of Washington:

H.R. 3019. A bill to amend the Federal Election Campaign Act of 1971 to prohibit the use

of soft money by political parties, to permit individuals to elect to not have payroll deductions used for political activities, and for other purposes; to the Committee on House Oversight, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STOKES:

H.R. 3020. A bill to establish a program, primarily through the States and municipalities, and their agents, to facilitate the environmental assessment, cleanup, and reuse of abandoned or underutilized, potentially contaminated properties not on, or proposed for inclusion on, the National Priorities List; to the Committee on Commerce, and in addition to the Committees on Transportation and Infrastructure, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STUPAK:

H.R. 3021. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to reduce certain funds if eligible States do not enact certain laws; to the Committee on the Judiciary.

By Mr. WATT of North Carolina (for himself, Mr. CONYERS, and Mr. COLLINS):

H.R. 3022. A bill to amend title 10, United States Code, to authorize the settlement and payment of claims against the United States for injury and death of members of the Armed Forces and Department of Defense civilian employees arising from incidents in which claims are settled for death or injury of foreign nationals; to the Committee on the Judiciary.

By Mr. WELDON of Pennsylvania (for himself and Mr. MARKEY):

H.R. 3023. A bill to end American subsidization of entities contributing to weapons proliferation; to the Committee on Intelligence (Permanent Select), and in addition to the Committees on Banking and Financial Services, and International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LIVINGSTON:

H.J. Res. 104. A joint resolution making further continuing appropriations for the fiscal year 1998, and for other purposes; to the Committee on Appropriations, November 9, 1997, the Committee on Appropriations discharged; considered and passed.

By Mr. LIVINGSTON:

H.J. Res. 105. A joint resolution making further continuing appropriations for the fiscal year 1998, and for other purposes; to the Committee on Appropriations, November 10 (Legislative Day, November 9), 1997, the Committee on Appropriations discharged; considered and passed.

By Ms. VELAZQUEZ (for herself, Mr. GUTIERREZ, and Mr. SERRANO):

H. Con. Res. 192. Concurrent resolution expressing the sense of the Congress that the heroism of the brave and gallant Puerto Ricans in the 65th Infantry Regiment of the United States Army who fought in the Korean conflict should be commemorated; to the Committee on Veterans' Affairs, and in addition to the Committee on National Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MICA (for himself, Mr. CONDIT, Mr. UPTON, Mr. WELDON of Florida, Mr. NORWOOD, Mr. PAPPAS, Mrs. FOWLER, Mr. SCARBOROUGH, Mr. SALMON, Mr. PITTS, Mr. HILLEARY, Mr. ROHRBACHER, Mr. CUNNINGHAM, Mr. DOOLITTLE, Mr. MILLER of Florida, Mr. HERGER, Mr. STEARNS, Mr. POMBO, Mr. LUCAS of Oklahoma, Mr. KINGSTON, Mr. SANFORD, Mr. JONES, Mr. BRADY, Mr. BACHUS, Mr. ROGAN, Mr. PICKERING, Mr. LAZIO of New York, Mr. INGLIS of South Carolina, Mr. PORTMAN, Mr. BLUNT, Mr. SHIMKUS, Mr. HEFLEY, Mr. HOSTETTLER, Mr. BURTON of Indiana, Mr. CHAMBLISS, Mr. LATOURETTE, Mr. WELLER, Mr. YOUNG of Florida, Mr. MCDADE, Mr. CALLAHAN, Mr. FOLEY, Mr. FOSSELLA, Mr. DICKEY, Mr. WAMP, Mr. COX of California, Mr. MANZULLO, Mr. GILCHREST, Mr. BARTLETT of Maryland, Mr. RIGGS, Mr. SAXTON, Mr. SHAYS, Mr. THOMAS, Mr. PAUL, Mr. HAYWORTH, Mr. BUYER, Mr. WICKER, Mrs. KELLY, Mr. COLLINS, Mr. EVERETT, Mr. LOBIONDO, Mr. HORN, Mr. KNOLLENBERG, Mr. RAMSTAD, Mr. MORAN of Virginia, Mr. ENSIGN, Mr. NETHERCUTT, Mrs. LINDA SMITH of Washington, Mr. RYUN, Mr. FRANKS of New Jersey, Mrs. CHENOWETH, Mr. SOUDER, Mr. TIAHRT, Mr. GUTKNECHT, Mr. KLUG, Mr. MCCOLLUM, Mr. MCKEON, Mr. DUNCAN, Mr. ENGLISH of Pennsylvania, Mr. THUNE, Mr. SMITH of New Jersey, Ms. GRANGER, Mr. SMITH of Michigan, Mr. WATKINS, Mr. BURR of North Carolina, Mr. WATTS of Oklahoma, Mr. STENHOLM, Mr. PETERSON of Minnesota, Mr. BOYD, Mr. OBERSTAR, Mr. CRANE, and Mr. EHLERS):

H. Con. Res. 193. Concurrent resolution expressing the sense of the Congress that the Attorney General should remove Hani El-Sayegh from the United States to the Kingdom of Saudi Arabia; to the Committee on the Judiciary.

By Mr. SOLOMON:

H. Con. Res. 194. Concurrent resolution providing for a joint session of Congress to receive a message from the President; adopted pursuant to H. Res. 311.

By Ms. HARMAN (for herself, Mr. SAWYER, Mr. REGULA, Mr. SPRATT, Mr. DAVIS of Virginia, Mr. PORTMAN, Mr. BECERRA, Mr. HASTINGS of Florida, Mr. BARRETT of Wisconsin, Mr. WATT of North Carolina, Ms. ROS-LEHTINEN, Mr. HOUGHTON, Mr. DICKEY, Mr. LEWIS of Georgia, Mr. MATSUI, and Ms. MILLENDER-MCDONALD):

H. Con. Res. 195. Concurrent resolution expressing the sense of Congress in support of National Days of Dialogue associated with the national celebration of the birth of Dr. Martin Luther King, Jr. to improve understanding and cooperation across race, ethnicity, culture, gender, religion and creed; to the Committee on the Judiciary.

By Mr. DAN SCHAEFER of Colorado:

H. Res. 317. A resolution providing for the agreement of the House to the Senate amendment to the bill, H.R. 2472, with an amendment; considered and agreed to.

By Mr. GEPHARDT:

H. Res. 318. Resolution relating to a question of the privileges of the House; considered and laid on the table.

By Mr. SOLOMON:

H. Res. 320. Resolution providing for a committee to notify the President of completion of business; adopted pursuant to H. Res. 311.

By Mr. KENNEDY of Massachusetts:  
H. Res. 321. A resolution expressing the sense of the House of Representatives that college and university administrators should adopt a code of principles to change the culture of alcohol consumption on college campuses; to the Committee on Education and the Workforce.

#### ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 27: Mr. RIGGS.  
H.R. 34: Mr. SUNUNU.  
H.R. 225: Mr. ABERCROMBIE.  
H.R. 251: Mr. PETERSON of Pennsylvania.  
H.R. 352: Mr. SALMON.  
H.R. 409: Mr. PAPPAS.  
H.R. 530: Mr. BERUTER and Mr. CALVERT.  
H.R. 543: Mr. SOLOMON, Mr. NETHERCUTT, Mr. DIXON, and Mr. HYDE.  
H.R. 586: Mr. JOHNSON of Wisconsin.  
H.R. 738: Ms. SLAUGHTER.  
H.R. 820: Ms. FURSE.  
H.R. 979: Mr. JOHNSON of Wisconsin and Ms. WATERS.  
H.R. 992: Mr. DEAL of Georgia and Mr. HUTCHINSON.  
H.R. 1151: Mr. ABERCROMBIE and Mr. SESSIONS.  
H.R. 1289: Mr. YATES.  
H.R. 1334: Mr. RIGGS and Ms. PELOSI.  
H.R. 1415: Mr. GOODLING.  
H.R. 1519: Mr. STOKES.  
H.R. 1525: Mr. MCNULTY.  
H.R. 1591: Mr. BARR of Georgia, Mr. SNOWBARGER, and Mr. SCARBOROUGH.  
H.R. 1628: Mr. KIM.  
H.R. 1635: Mr. BAESLER, Mr. SAXTON, Mr. LEACH, Mr. COSTELLO, Mrs. LOWEY, Mr. HINCHEY, Mr. ROMERO-BARCELÓ, Mr. HORN, Mr. WAXMAN, and Mr. SKAGGS.  
H.R. 1822: Mr. JOHNSON of Wisconsin.  
H.R. 1872: Mr. GREENWOOD, Mr. STRICKLAND, Mr. DAVIS of Virginia, Mr. PALLONE, Mr. LINDER, Mr. DICKS, Mr. GREEN, and Mr. RUSH.  
H.R. 1891: Mr. BOEHLER.  
H.R. 2053: Mr. LOFGREN.  
H.R. 2131: Mr. JOHNSON of Wisconsin.  
H.R. 2174: Mr. MALONEY of Connecticut.  
H.R. 2229: Mr. WATTS of Oklahoma.  
H.R. 2273: Mr. STUPAK, Mr. BAESLER, Mr. MALONEY of Connecticut, and Mr. HUTCHINSON.  
H.R. 2319: Mr. LUTHER.  
H.R. 2321: Mr. RIGGS.  
H.R. 2335: Mr. CONDIT.  
H.R. 2363: Mr. CABOT, Mr. DREIER, Mr. KOLBE, Mr. LIVINGSTON, Mr. RYUN, Mr. SAXTON, Mr. SMITH of Oregon, Mr. SOLOMON, Mr. SPENCE, and Mr. WICKER.  
H.R. 2369: Mr. CAMPBELL.  
H.R. 2391: Mr. KUCINICH, and Mr. MCGOVERN.  
H.R. 2397: Ms. SLAUGHTER.  
H.R. 2436: Mr. LAFALCE.  
H.R. 2483: Mr. FRANKS of New Jersey.  
H.R. 2500: Mr. ARMEY, Mr. BAESLER, Mr. BAKER, Mr. BALLENGER, Mr. BARCIA of Michigan, Mr. BARR of Georgia, Mr. BARRETT of Nebraska, Mr. BARTLETT of Maryland, Mr. BARTON of Texas, Mr. BERUTER, Mr. BLAGOJEVICH, Mr. BLILEY, Mr. BOEHLERT, Mr. BOEHNER, Mr. BONILLA, Mr. BONO, Mr. BOYD, Mr. BRYANT, Mr. BUNNING of Kentucky, Mr. BURR of North Carolina, Mr. CALVERT, Mr. CANADY of Florida, Mr. CHABOT, Mr. CHAMBLISS, Mr. CHRISTENSEN, Mr. CLEMENT, Mr. COBLE, Mr. CONDIT, Mr. COOK, Mr. COOKSEY, Mr. COX of California, Mr. CRANE,

Mr. DEAL of Georgia, Mr. DEUTSCH, Mr. DOOLEY of California, Mr. DREIER, Ms. DUNN of Washington, Mr. EHRLICH, Mr. FATTAH, Mr. FOLEY, Mrs. FOWLER, Mr. FOX of Pennsylvania, Mr. FROST, Ms. FURSE, Mr. GILMAN, Mr. GOODE, Mr. GOODLATTE, Mr. GOODLING, Mr. GORDON, Mr. GOSS, Mr. HALL of Texas, Mr. HANSEN, Mr. HASTERT, Mr. HEFLEY, Mr. HILL, Mr. HOLDEN, Mr. HUNTER, Mr. HUTCHINSON, Mr. INGLIS of South Carolina, Mr. JENKINS, Mr. JONES, Mr. SAM JOHNSON, Mr. KASICH, Mrs. KELLY, Mr. KENNEDY of Rhode Island, Mr. KING of New York, Mr. LATOURETTE, Mr. LEWIS of California, Mr. LINDER, Ms. MCCARTHY of Missouri, Mr. MEEHAN, Mr. METCALF, Mr. MORAN of Virginia, Mrs. MYRICK, Mr. NEY, Mrs. NORTHUP, Mr. OXLEY, Mr. PARKER, Mr. PAXON, Mr. PETERSON of Minnesota, Mr. PICKETT, Mr. REDMOND, Mr. RIGGS, Mr. ROEMER, Mr. ROGAN, Mr. ROYCE, Mr. SAXTON, Mr. SCARBOROUGH, Mr. SENSENBRENNER, Mr. SESSIONS, Mr. SHIMKUS, Mr. SISISKY, Mr. SKELTON, Mr. ADAM SMITH of Washington, Mr. SMITH of Texas, Mr. SOLOMON, Mr. SPENCE, Mr. STENHOLM, Mr. TANNER, Mrs. TAUSCHER, Mr. TAUZIN, Mr. WATTS of Oklahoma, Mr. WELDON of Florida, Mr. WELLER, Mr. BURTON of Indiana, Mr. DICKEY, Mr. ARCHER, Mr. QUINN, Mr. LAHOOD, Mr. TIAHRT, Mr. DAVIS of Virginia, Mr. THOMAS, Mr. CUNNINGHAM, Mr. ENSIGN, Mr. GIBBONS, Mr. STUMP, Mr. COMBEST, Mr. HAYWORTH, Mr. ROHRBACHER, Mr. CALLAHAN, Mr. EVERETT, Mr. STEARNS, Mr. DELAY, Mr. GINGRICH, and Mr. LIVINGSTON.  
H.R. 2509: Mr. LEWIS of Georgia.  
H.R. 2524: Mr. ABERCROMBIE.  
H.R. 2593: Mrs. LOWEY, Mr. WAMP, Mr. GRAHAM, Mr. NETHERCUTT, Mr. BRADY, Mr. KNOLLENBERG, Mr. SENSENBRENNER, Mr. MCINTOSH, Mr. HOBSON, Mr. TAYLOR of North Carolina, Mr. WELDON of Pennsylvania, Mr. MICA, Mr. DICKEY, Mr. THOMAS, Mr. CANNON, Mr. SAXTON, Mr. SOLOMON, Mrs. KELLY, Mr. MANZULLO, Mr. WELDON of Florida, Mr. PAXON, Mr. SNOWBARGER, Mr. HORN, Mr. SALMON, Mr. DAN SCHAEFER of Colorado, Mr. NEY, Mr. STUMP, and Mr. RAMSTAD.  
H.R. 2611: Mr. BLUNT, Mr. DUNCAN, Mr. TAUZIN, Mr. BARR of Georgia, Mr. BILBRAY, Mr. CANNON, Mr. CHRISTENSEN, Mr. HEFLEY, Mr. MCKEON, Mr. MICA, Mrs. LINDA SMITH of Washington, Mr. SMITH of Oregon, Mr. SOUDER, Mr. SPENCE, Mr. EHRLICH, Mr. RIGGS, and Mr. CRANE.  
H.R. 2695: Mr. BONIOR, Mr. DELLUMS, Mr. KUCINICH, Mr. MCGOVERN, Ms. LOFGREN, Mrs. THURMAN, and Ms. MILLENDER-MCDONALD.  
H.R. 2750: Mrs. THURMAN.  
H.R. 2755: Mr. WAXMAN, Mrs. MINK of Hawaii, Mr. FRANK of MASSACHUSETTS, Mr. FROST, Mr. WALSH, Ms. LOFGREN, Ms. CARSON, Ms. KILPATRICK, Mr. BONIOR, and Mr. EVANS.  
H.R. 2760: Mr. CALVERT, Mr. BACHUS, and Mr. RADANOVICH.  
H.R. 2780: Mr. CAMPBELL, Mr. LARGENT, Mr. MCINTOSH, Mr. BRYANT, Mr. WHITE, Mr. LATOURETTE, and Mr. SALMON.  
H.R. 2819: Mr. HERGER and Ms. HARMAN.  
H.R. 2820: Mr. CALVERT.  
H.R. 2821: Mr. NEAL of Massachusetts.  
H.R. 2826: Ms. SLAUGHTER and Ms. NORTON.  
H.R. 2829: Mr. ACKERMAN, Mr. DAVIS of Illinois, Mr. FARR of California, Mr. KUCINICH, Mr. PARKER, Mr. POMEROY, Mr. SCHUMER, and Ms. STABENOW.  
H.R. 2846: Mr. WATTS of Oklahoma and Mr. EHRLICH.  
H.R. 2850: Ms. LOFGREN and Mr. STOKES.  
H.R. 2858: Mr. GONZALEZ.  
H.R. 2870: Mr. EWING.  
H.R. 2921: Mr. WHITFIELD, Mr. SHIMKUS, Mr. NORWOOD, Mr. HALL of Texas, Mr. GREENWOOD, Mr. STEARNS, Mr. HILL, Mr. MCHUGH, Mr. PACKARD, and Mr. BONILLA.

H.R. 2922: Mr. HUTCHINSON.  
 H.R. 2929: Mr. BACHUS.  
 H.R. 2938: Mr. MILLER of Florida and Mr. STEARNS.  
 H.R. 2940: Mr. BAKER.  
 H.J. Res. 99: Ms. SLAUGHTER.  
 H. Con. Res. 41: Mr. LOBIONDO.

H. Con. Res. 141: Mr. DAVIS of Illinois and Mr. ADAM SMITH of Washington.  
 H. Con. Res. 156: Mr. CLEMENT and Mr. CALVERT.  
 H. Con. Res. 181: Mr. MCGOVERN, Mrs. MORELLA, Mr. GEKAS, Mr. FORBES, and Mr. LAZIO of New York.

H. Res. 119: Mr. ALLEN.  
 H. Res. 251: Mr. MANTON, Mr. WAXMAN, Mr. ALLEN, and Ms. STABENOW.  
 H. Res. 279: Ms. SLAUGHTER.

## EXTENSIONS OF REMARKS

RELEASE OF HOUSE RESOURCE  
COMMITTEE MAJORITY STAFF  
REPORT ON SUBPOENAED NA-  
TIONAL MONUMENT DOCUMENTS

HON. JAMES V. HANSEN

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Friday, November 7, 1997

Mr. HANSEN. Mr. Speaker, the majority staff of the House Committee on Resources will release a staff report today on the subpoenaed national monument documents received from the Clinton administration. The documents show that the designation of the Grand Staircase-Escalante National Monument was politically motivated and probably illegal.

It is very important that these documents are opened up for public scrutiny. They show the American people that the designation of the monument was politically motivated; that the administration engaged in a concerted effort to keep everything secret in order to avoid public scrutiny; and that the administration admitted that the lands in question weren't in danger and weren't among the lands in this country most in need of monument designation.

The White House abused its discretion in nearly every stage of the process of designating the monument. It was a staff drive effort, first to short-circuit a congressional wilderness proposal, and then to help the Clinton-Gore re-election campaign. The lands to be set aside, by the staff's own descriptions, were not threatened. "I'm increasingly of the view that we should just drop these Utah ideas \* \* \* these lands are not really endangered."—Kathleen McGinty, chair, Counsel on Environmental Quality [CEQ].

The documents also show that claims by the administration that the monument was created to save Utah from foreign coal mining was nothing but a front to make the idea look legitimate. The administration was already several months into the process of creating the monument before anyone even mentioned throwing in the Kaiparowits Plateau. The administration added the Kaiparowits, with its attendant Andalex coal leases, at the last minute so they could claim they were protecting some endangered lands.

The documents are loaded with evidence of a concerted effort by the Department of the Interior [DOI] and CEQ staff to circumvent the National Environmental Policy Act [NEPA]. Staff was aware that the law requires NEPA compliance, with its attendant public input process, when national monument proposals come out of an agency. The documents show how DOI and CEQ spent months trying to create a paper trail to make it look like the idea came directly from the President. "We need to build a credible record that will withstand legal challenge \* \* \* so [this] letter needs to be signed asap so that the secretary has what

looks like a credible amount of time to do his investigation of the matter."—Kathleen McGinty, chair, Counsel on Environmental Quality [CEQ].

Probably the most telling, yet unsurprising, document is where CEQ Chair Kathleen McGinty fills in President Clinton on the Political Purpose of the national monument designation: "It is our considered assessment that an action of this type and scale would help to overcome the negative views toward the Administration created by the timber rider. Designation of the new monument would create a compelling reason for persons who are now disaffected to come around and enthusiastically support the Administration \* \* \*"

Ms. McGinty continued by noting that: "[T]he new monument will have particular appeal in those areas that contribute the most visitation to the parks and public lands of southern Utah, namely, coastal California, Oregon and Washington, southern Nevada, the Front Range communities of Colorado, the Taos-Albuquerque corridor, and the Phoenix-Tucson area."

Ms. McGinty noted that there would be a few who would oppose the designation, but they were generally those "who in candor, are unlikely to support the Administration under any circumstances". Translation: Designating the monument would help get Clinton western electoral votes in the 1996 election. He would lose Utah, but he didn't have a chance at winning that State anyway.

These documents should make it clear to the American people that the real reason that the administration used the Antiquities Act on these lands was to circumvent congressional involvement in public land decisions, to evade the public involvement provisions of NEPA, and to use our public lands as election year props. The Clinton administration's actions show not only a disregard for the State of Utah, but a blatant disregard for America's public land laws, and a contempt for the democratic process.

[105th Congress, 1st Session, House of Representatives]

LEGISLATIVE STUDY AND INVESTIGATIVE STAFF REPORT ON ABUSE OF DISCRETION IN THE CREATION OF THE GRAND STAIRCASE-ESCALANTE NATIONAL MONUMENT UNDER THE ANTIQUITIES ACT, NOVEMBER 7, 1997

Majority staff of the Committee on Resources, Subcommittee on National Parks and Public Lands submits the following staff report to the Members of the Committee, "Behind Closed Doors: The Abuse of Trust And Discretion In The Establishment Of The Grand Staircase-Escalante National Monument."

INTRODUCTION: COMMITTEE REVIEW OF THE DESIGNATION OF THE GRAND STAIRCASE-ESCALANTE NATIONAL MONUMENT

On September 18, 1996, President Clinton established, by Presidential Proclamation No. 6920, the 1.7-million-acre Grand Staircase-Escalante National Monument ("Utah

Monument") in Utah pursuant to Section 2 of the Act of June 8, 1906 ("Antiquities Act"). The Committee on Resources has jurisdiction over the Antiquities Act and the creation of the Monument, jurisdiction that is delegated under Rule 6(a) of the Rules For the Committee on Resources ("Committee Rules") to the Subcommittee on National Parks and Public Lands.

The Subcommittee has a continuing responsibility under Rule 6(d) of the Committee Rules to monitor and evaluate administration of laws within its jurisdiction. In relevant part, that rule states: ". . . Each Subcommittee shall review and study, on a continuing basis, the application, administration, execution, and effectiveness of those statutes or parts of statutes, the subject matter of which is within that Subcommittee's jurisdiction; and the organization, operation, and regulations of any Federal agency or entity having responsibilities in or for the administration of such statutes; to determine whether these statutes are being implemented and carried out in accordance with the intent of Congress. . . ."

The Subcommittee, in concert with the Full Committee, undertook its Rule 6(d) responsibility when, on March 18, 1997, Chairman Young and Subcommittee Chairman Hansen initiated a review of the creation of the Monument. Some records were produced by the Council on Environmental Quality (CEQ) and the Department of the Interior (DOI) pursuant to a March 18, 1997, request to the Chair of CEQ and the Secretary of DOI related to the review. The documents that were produced were utilized by unanimous consent at a Subcommittee oversight hearing on April 29, 1997.

However, CEQ Chair Kathleen McGinty refused to produce copies of embarrassing documents that revealed why—beyond the reasons stated in the proclamation and publicly—the monument was created. Staff was given access to some of the documents and Members to others in an attempt to accommodate stated Administration desires to keep the documents secret because the Administration claimed they might be "privileged." However, constitutional executive privilege was never officially asserted by the President over the documents.

Chairman Young was delegated the authority to subpoena Monument records by the Committee on September 25, 1997. After a protracted legal exchange between the White House and Committee staff on the applicability of privileges to the documents withheld, Chairman Young, on October 9, 1997, issued the subpoena for the records withheld by CEQ Chair Kathleen McGinty.

The subpoena was unreturned on the due date and the committee staff began preparing a contempt resolution. However, on Wednesday, October 22, 1997, the Counsel to the President, Charles F.C. Ruff, produced the subpoenaed documents to the Committee.<sup>1</sup>

<sup>1</sup>Based upon representations of CEQ staff, all documents in the possession of CEQ regarding the Grand Staircase-Escalante National Monument have now been produced.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

The delay—from March through October 1997—in producing the ultimately subpoenaed documents thwarted efforts of the Subcommittee and Committee to properly undertake its duties under Article I and Article IV of the Constitution and Rule 6(d) of the Committee Rules. The Subcommittee hearing on the matter had already been held and the remaining days in the first session of the 105th Congress were limited. The Committee is actively considering legislation that modifies the Antiquities Act.

As a result of the delay, the Chairman and Subcommittee Chairman requested this legislative study and investigative majority staff report. The request was to analyze and append relevant documents produced under the subpoena that show if there were abuses of discretion by the President and his advisors in the execution of the Antiquities Act to create the Utah Monument and whether that Act was being implemented and carried out in accordance with the intent of Congress. This legislative study and report responds to that request. This report was developed for and provided to Members of the Committee on Resources for their information so that Members can undertake their legislative and oversight responsibilities under the Constitution, the Rules of the House of Representatives, and the Rules for the Committee on Resources.

#### THE LAW: ANTIQUITIES ACT MONUMENT DESIGNATIONS

The Antiquities Act can be summarized simply. By proclamation, the President may reserve federal land as a National Monument. The land must be a historic landmark, a historic or prehistoric structure, or an object of historic or scientific interest. In addition, the reserved area must "in all cases" be "confined to the smallest area compatible with the proper care and management of the objects to be protected." The Act contemplates that objects to be protected must be threatened or endangered in some way.<sup>2</sup>

#### EXECUTIVE SUMMARY OF FINDINGS MONUMENTAL DECISIONS BEHIND CLOSED DOORS

"I'm increasingly of the view that we should just drop these Utah ideas . . . these lands are not really endangered."—CEQ Chair Kathleen McGinty.

The state of Utah was settled by hearty Mormon pioneers seeking to avoid persecution for their beliefs. They moved west in an effort to find wide, open spaces and freedom from intrusion into their affairs by their neighbors and the government. Now, more than a century later, the citizens of Utah have been forced to endure the ultimate government intrusion: a federal land grab of 1.7 million acres, taken in the dead of night—with no public notice, no opportunity to comment, and no involvement of the Utah Congressional Delegation. Indeed, the Utah delegation was deceived about the imminent decision to designate the Grand Staircase-Escalante National Monument up until hours before the President's high-profile, public, campaign-style announcement.

Once again, at the hands of the Clinton Administration, the people of Utah were being persecuted for their beliefs. Had Utah been a pro-Clinton state, a state with prominent Democratic Members of Congress, or one that factored importantly into Clinton's reelection effort, then the land-grab would almost certainly not have occurred.

In sum, the documents received by the Committee show several points quite clearly:

(1) the designation of the Monument was almost entirely politically motivated; (2) the plan to designate the monument was purposefully kept secret from Americans and Utah Members of Congress; (3) the Monument designation was put forward even though the Administration officials did not believe that the lands proposed for protection were in danger; (4) use of the Antiquities Act was intended to overcome Congressional involvement in land designation decisions; (5) use of the Antiquities Act for monument designation was planned to evade the National Environmental Policy Act (NEPA). Indeed, its use was specifically intended to evade the provisions of NEPA and other federal administrative requirements, and to assist the Clinton-Gore reelection effort.

#### IT'S POLITICS, STUPID—NOT THE ENVIRONMENT

The records and documents provided by the CEQ and DOI clearly demonstrate that the Administration's goal was political, not environmental, a fact that contradicts the Congressional intent of the Antiquities Act.

The Clinton White House took pains to ensure that all prominent Democrats from neighboring states were not only warned in advance, but had an opportunity to give their views on the designation. In an August 14, 1996, memorandum for the President, CEQ Chair Kathleen McGinty opines that the monument designation would be politically popular in several key Western states. In Ms. McGinty's words: "This assessment squares with the positive reactions by Senator [sic] Harry Reid (D-NV), Governor Roy Romer (D-CO), and Representative Bill Richardson (D-NM) when asked their views on the proposal. . . . Governor Bob Miller's (D-NV) concern that Nevada's sagebrush rebels would not approve of the new monument is almost certainly correct, and echoes the concerns of other friends, but can be offset by the positive response in other constituencies."

In fact, even non-incumbent Democratic candidates for office from states other than Utah were warned about the impending land grab. CEQ Chair Kathleen McGinty explained this in a moment of partisan candor in her September 6, 1996, White House weekly report: "I have called several members of congress to give them notice of this story and am working with political affairs to determine if there are Democratic candidates we should alert. We are neither confirming nor denying the story; just making sure that Democrats are not surprised."

It was only Republicans, the lone Utah Democratic Member, and Utahans who were to be kept in the dark. Even media outlets like the Washington Post were advised by insiders to the Utah Monument decision as evidenced by electronic mail (e-mail) traffic: "Brian: So when pressed by Mark Udall and Maggie Fox on the Utah monument at yesterday's private ceremony for Mo [Udall] Clinton said: 'You don't know when to take yes for an answer.' Sounds to me like it's going forward. I also hear Romer is pushing the president to announce it when he's in Colorado on Wednesday. . . . —Tom Kenworthy" (September 10, 1996 From Brian Johnson (CEQ press) to others at CEQ transmitting e-mail from Washington Post reporter Tom Kenworthy).

Another CEQ staffer commenting on the above e-mail: "Wow. He's got good sources and a lot of nerve." (September 10, 1996, response from Tom Jensen to Brian Johnson's e-mail previously forwarded).

The exchange continues: "south rim of the grand canyon, sept 18th—be there or be square." (September 11, 1996, e-mail from Tom Kenworthy to Brian Johnson).

The exchange continues again: "Nice touch doing the Escalante Canyons announcement on the birthday of Utah's junior senator! Give me a call if you get a chance." (September 16, 1996, e-mail from Tom Kenworthy to Brian Johnson).

This e-mail traffic demonstrates that by September 10 and 11, 1996, the Washington Post clearly had been notified not only that the decision had been made, but when and where the announcement would be. By contrast, the Utah Congressional delegation was being told by Ms. McGinty and top CEQ staff on September 9 that no decision had been made and the delegation would be consulted prior to any announcement.

Moreover, CEQ, White House Staff, and DOI officials met with Utah's delegation staff again on September 16, 1996—two days before the Utah Monument designation—and continued to deny that a decision had been made to go forward with the designation. Meeting notes taken by Tom Jensen of CEQ at the September 16, 1996, meeting indicate the following exchange between Senator Hatch and Kathleen McGinty: "Senator Hatch: 'Can you give us an idea of what the POTUS [President] will do before he does it? Don't want to rely on press.'" "Kathleen McGinty: 'Yes. We need to caucus and will reengage.'"

This deception, a full week after the Washington Post knew all of the details of the Utah Monument designation and "Utah event," allowed the White House to move forward without Congressional intervention.

In an August 14, 1996, memo to the President, CEQ Chair Kathleen McGinty candidly discusses the goal of the project—to positively impact the President's re-election campaign: "The political purpose of the Utah event is to show distinctly your willingness to use the office of the President to protect the environment. . . . It is our considered assessment that an action of this type and scale would help to overcome the negative views toward the Administration created by the timber rider. Designation of the new monument would create a compelling reason for persons who are now disaffected to come around and enthusiastically support the Administration. . . . Opposition to the designation will come from some of the same parties who have generally opposed the Administration's natural resource and environmental policies and who, in candor, are unlikely to support the Administration under any circumstances."

Many of the documents attempt to gauge the political impact of the action, yet the environmental impact of the decision is rarely explored. Regardless of the environmental impact, the Clinton-Gore campaign needed the Utah Monument to shore up its political base in the environmental movement. When environmental impact is explored in some documents, they note that the lands to be set aside under the designation are not environmentally threatened—a sentiment echoed by CEQ Chair Kathleen McGinty herself in a March 25, 1996, e-mail: "I'm increasingly of the view that we should just drop these Utah ideas. We do not really know how the enviros will react and I do think there is a danger of 'abuse' of the withdraw/antiquities authorities especially because these lands are not really endangered."

In a March 22, 1996, e-mail, CEQ Associate Director for Public Lands Linda Lance agreed, warning against the Utah Monument designation because of the political impact of using the Act to set aside unthreatened lands: ". . . [T]he real remaining question is not so much what this letter says, but the

<sup>2</sup>See Report to accompany S. 4698, Rpt. No. 3797, 99th Cong., 1st Sess. (May 24, 1996).

political consequences of designating these lands as monuments when they're not threatened with losing wilderness status, and they're probably not the areas of the country most in need of this designation. presidents have not used their monument designation authority in this way in the past—only for large dramatic parcels that are threatened. do we risk a backlash from the bad guys if we do these—do they have the chance to suggest that this administration could use this authority all the time all over the country, and start to argue that the discretion is too broad?"

However, sentiment changed a few days later. The March 27, 1996, e-mail from Linda Lance at CEQ to Kathleen McGinty who forwarded it to others at CEQ shows that DOI was keeping the Monument idea alive: "since I and I think others were persuaded at yesterday's meeting w/Interior that we shouldn't write off the canyonlands and arches monument just yet here's another try at a draft letter to Babbitt to get this process started."

Despite the fact that CEQ Chair advocated dropping the idea, and despite the fact that there is no indication that the President had given either CEQ or Interior any formal notice that he even knew about the idea, DOI was apparently hard (behind the scenes) for this monument. Still there was no letter in March, April, May, June, or July 1996 from the President to the Secretary directing work on designating a possible Utah Monument. At a minimum, this is a violation of the spirit of NEPA, a statute that CEQ is responsible for implementing. Both DOI and CEQ knew it was a violation. Hence, the urgency in seeking the letter from the President to the Secretary directing him to undertake work to designate the Utah Monument.

THE ENDS JUSTIFY THE MEANS: NEPA, A LAW OF CONVENIENCE FOR THE CLINTON-GORE CAMPAIGN

No Presidential written direction to the Secretary of DOI emerged until August 7, 1996, and by then, the first planned announcement was only ten days away. Still, no one from state or local government, or the Utah Congressional delegation had been consulted. These actions, in the absence of written direction from the President, make a mockery of what CEQ Chair Kathleen McGinty testified was the overriding purpose behind NEPA: "It provides the federal government an opportunity for collaborative decision-making with state and local governments and the public." (September 26, 1996, Testimony of Kathleen McGinty before the Senate Energy Committee.)

The National Environmental Policy Act created CEQ, and the Council is charged with reviewing and appraising federal activities and determining whether they comply with the requirements and policies of the Act. (See, National Environmental Policy Act, Section 204.) Those requirements include development of environmental impact statements (EIA) or NEPA documents by federal agencies for major federal actions. Nearly all major federal actions—like designating land—require some level of NEPA documentation and process. NEPA environmental impact statements receive public notice, public comment, and public hearings. There was a conscious effort to use the Antiquities Act to avoid these NEPA requirements altogether in the designation of the Utah Monument.

Under the Antiquities Act, at the direction of the President, a monument may be established unilaterally by the President under limited circumstances. Using the Antiquities

Act had several benefits to the Clinton-Gore Administration: (1) it is not necessary to work with Congress; (2) it is not necessary to comply with the Administrative Procedures Act's requirements to provide public notice or opportunity to be heard; and (3) it is not necessary to comply with NEPA requirements to involve the public or establish an administrative record on environmental impacts.

In short, the Antiquities Act was used to override the chance that the views of the people of Utah—and most importantly, elected Members of the Utah delegation—would influence the Utah Monument decision. In fact, the documents demonstrate that evading NEPA was a major internal rationale for using the Antiquities Act. This is a striking example of how the Clinton-Gore Administration manipulated the law to the advantage of the Clinton-Gore campaign for purposes of a "Utah event"—an event that might make the insatiable desires of the environmentalist constituency happy for a moment. Alarmingly, the chief architects of the endeavor to evade NEPA were in the leadership of CEQ—the entity charged with overseeing NEPA. A draft memo dated July 25, 1996, from CEQ Chair Kathleen McGinty to the President revealed that use of the Act was a means to avoid NEPA: "Ordinarily, if the (Interior) Secretary were on his own initiative to send you a recommendation for establishment of a monument, he would most likely be required to comply with NEPA and certain federal land management laws in advance of submitting his recommendation. But, because he is responding to your request for information, he is not required to analyze the information or recommendations under NEPA or other laws. And, because Presidential actions are not subject to NEPA, you are empowered to establish monuments under the Antiquities Act without NEPA review."

Although this revealing paragraph was edited out of the final memo, it is alarmingly hypocritical that CEQ, the agency created by NEPA and charged with seeing that it is complied with, was clearly advising the President how to evade NEPA. The same July 25, 1996, draft, written by CEQ staffer Thomas Jensen, makes it clear, however, that this was the secret goal. Contrast this with the lofty public pronouncements from high-ranking CEQ officials about the importance that other government entities comply with NEPA: "The lack of attention to NEPA's policies speaks to the tendency of our society to devalue those provisions of law that are not enforceable through the judicial system. One answer to the common complaint that we live in an overly litigious society is for individuals and agencies to take seriously such provisions as the national environmental policy set forth in section 101 of NEPA. Absent such a trend, interested individuals will naturally be skeptical of approaches that are not amendable to a legal remedy." Dinah Bear, General Counsel, CEQ, "The National Environmental Policy Act: its Origins and Evolutions," Natural Resources and Environment, Vol. 10, No. 2 (Fall, 1995).

Contrast this with the testimony of CEQ Chair Kathleen McGinty to the Senate Energy and Natural Resources Committee within days of the designation (September 26, 1996): "In many ways, NEPA anticipated today's call for enhanced local involvement and responsibility, sustainable development and government accountability. By bringing the public into the agency decision-making process, NEPA is like no other statute and is

an extraordinary tribute to the ability of the American people to build upon shared values \* \* \*

"[NEPA] gives greater voice to communities. It provides the federal government an opportunity for collaborative decision-making with state and local government and the public \* \* \* It should and in many cases does improve federal decision-making \* \* \*

"As directed by NEPA, CEQ is responsible for overseeing implementation of the environmental impact assessment process \* \* \*

Either NEPA is an important statute worthy of implementation, as CEQ Chair McGinty states, or it is not. Either public, state, and local involvement is important, as CEQ Chair McGinty states, or it is not. Apparently, in the case of the Utah Monument designation, it was not important enough to implement NEPA because the end apparently justified the means.

What was important was selective application of NEPA for the convenience of the Clinton-Gore re-election effort. One of two conclusions exist as to why NEPA was not applied to the Utah Monument designation as it would "ordinarily" be applied (the words used by Ms. McGinty). The first possible conclusion is that the Utah Monument designation would not pass muster under NEPA. The second possible conclusion is that NEPA would not allow a decision before the 1996 Presidential election, and the designation was needed for the campaign. Otherwise, why not allow NEPA to "bless" Utah Monument?

Further, it is obvious from the documents that the Administration, in its zeal to use the Antiquities Act in an attempt to shield the Utah land grab from APA and NEPA, did not fully comply with the statutory requirements to justify using the Antiquities Act—namely that the President initiate the designation process. Ms. McGinty clarifies this point in a July 29, 1996, e-mail to Todd Stern of CEQ: "the president will do the Utah event on Aug 17. however, we still need to get the letter (from the President to Interior Secretary Bruce Babbitt) signed asap. the reason: under the antiquities act, we need to build a credible record that will withstand legal challenge that: (1) the president asked the secretary to look into these lands to see if they are of important scientific, cultural, or historic value; (2) the secy undertook that review and presented the results to the president; (3) the president found the review compelling and therefore exercised his authority under the antiquities act. presidential actions under this act have always been challenged. they have never been struck down, however. so, letter needs to be signed asap so that secy has what looks like a credible amount of time to do his investigation of the matter. we have opened the letter with a sentence that gives us some more room by making it clear that the president and babbitt had discussed this some time ago."

This e-mail clarifies the following points: (1) by July 29, 1996, not only had the decision to make the designation been made by the White House, the staff had already agreed to an announcement event (the date was eventually postponed) and (2) although this decision had already been made, a fake paper trail had to be carefully crafted to make it appear as if President had asked the Secretary to look into the matter and initiate the staff work. By that time, however, the staff work was already apparently underway. This is an alarming breach of responsibility at the top levels of DOI and CEQ.

In fact, CEQ's Tom Jensen, in a frantic July 23, 1996, e-mail, asks fellow CEQ staffer

Peter Umhofer to help create the fake paper trail: "Peter, I need your help. The following text needs to be transformed into a signed POTUS (President of the United States) letter ASAP. The letter does not need to be sent, it could be held in an appropriate office (Katie's [McGinty's] Todd Sterns?) but it must be prepared and signed ASAP. You should discuss the processing of the letter with Katie, given its sensitivity."

The e-mail spells out the CEQ plan to create the letter to the Secretary and store it in its own White House files—never even really sending it to the Secretary—creating the false appearance that the President's letter had predated and prompted the staff work on Escalante. All the while, work on the monument designation was already underway within DOI to draw the necessary Antiquities Act papers to make the secretly planned designation. Without such a letter, the White House would have had to comply with NEPA just like the rest of America.

**CAMPAIGN STYLE "EVENT" FOR A CAMPAIGN-MOTIVATED DECISION THAT VIOLATES THE INTENT OF THE ANTIQUITIES ACT**

The documents show that the White House abused its discretion in nearly every stage of the process of designating the Grand Staircase-Escalante National Monument. It was a staff-driven effort, first to short-circuit a Congressional wilderness proposal, and then to help the Clinton-Core re-election campaign. The lands to be set aside, by the staff's own descriptions, were not threatened—and hence did not qualify for protection as a National Monument.

The decision was withheld from any public scrutiny or Congressional oversight—and Members of the Utah Congressional delegation were deceived as to its impending status until well after the decision had been made, and the campaign-style announcement event was only days away. The administrative and environmental hurdles that would normally accompany such an action were evaded by contorting a turn-of-the-century statute designed to protect Indian artifacts onto a 1.7-million-acre land grab. And finally, to justify use of this Act, and evasion of the requirements of NEPA—the CEQ's own enabling statute—the administrative record was toyed with to create the false impression that the President had requested the staff work before it had been conducted.

Indeed, a careful review of the Act and historic Presidential use of the Antiquities Act clarifies that the President's use of the Act was an abuse of discretion. The Antiquities Act of 1906 is an obscure Act that pre-dated the regulatory reforms that require public notice, analysis of environmental and economic impacts, and an opportunity for interested parties to be heard. Until Clinton used it in the 1996 Utah land grab, the Act had languished unused for nearly two decades.

The Act is designed to help protect architecturally and anthropologically unique artifacts from acquisition or destruction. It has primarily been used to protect antique artifacts, historic buildings, and relatively small parcels of rare geologic formations. It was emphatically not designed to be used to set aside massive chunks of western states. When the Act was created by Congress, the West was still being settled. Congress wanted to prevent valuable historic and geologic artifacts from being destroyed or carried off. The Act was necessary, according to the 1906 bill report, "in view of the fact that the historic and prehistoric ruins and monuments on the public lands of the United States are rapidly being destroyed by parties who are gathering them

as relics and for the use of museums and colleges, etc." Nowhere was a 1.7-million-acre land grab mentioned or contemplated. Nowhere in the subpoenaed documents obtained were there serious allegations of the 1.7 million acres being "threatened" in any way.

Indeed, the House debate over the bill records that, even nearly a century ago, western Members were concerned that the powers of this Act not be used to grab up huge quantities of land. One such Member, Mr. Stephens of Texas, only agreed not to object to consideration of the bill after being assured by the bill's proponent, Mr. Lacey, that such an outcome was not possible under the act, whose major focus was Indian artifacts:

Mr. LACEY. There has been an effort made to have national parks in some of these regions, but this will merely make small reservations where the objects are of sufficient interest to preserve them.

Mr. STEPHENS of Texas. Will that take this land off of market, or can they still be settled on as part of the public domain?

Mr. LACEY. It will take that portion of the reservation out of the market. It is meant to cover the cave dwellers and cliff dwellers.

Mr. STEPHENS of Texas. How much land will be taken off the market in the Western States by the passage of this bill?

Mr. LACEY. Not very much. The bill provides that it shall be the smallest area necessary [sic] for the care and maintenance of the objects to be preserved.

Mr. STEPHENS of Texas. Would it be anything like the forest-reserve bill, by which seventy or eighty million acres of land in the United States have been tied up?

Mr. LACEY. Certainly not. The object is entirely different. It is to preserve these old objects of special interest in the Southwest, whilst the other reserves the forests and the water courses.

Mr. STEPHENS of Texas. I will say that that bill was abused. I know of one place where in 5 miles square you could not get a cord of wood, and they call it a forest, and by such means they have locked up a very large area in this country.

Mr. LACEY. The next bill I desire to call up is a bill . . . which permits the opening up of specified tracts of agricultural lands where they can be used, by which the very evil that my friend is protesting against can be remedied. . . .

Mr. STEPHENS of Texas. I hope the gentleman will succeed in passing that bill, and this bill will not result in locking up other lands. I have no objection to its consideration.—(40 Cong. Rec. H7888, June 5, 1906.)

So why take an old, obscure law designed to protect cliff dwellings or historic relics and manipulate it into a 1.7-million-acre land grab? The answer is clear from the attached documents: the ends (the political gain amongst environmental groups) justified the means (violating the purpose and intent of the Antiquities Act and NEPA to lock up the land).

The Clinton-Gore Administration's abuse of the Antiquities Act meant (1) it was not necessary to work with Congress and elected leaders from Utah; (2) it was not necessary to comply with the Administrative Procedures Act's requirements to provide public notice or opportunity to be heard; and (3) it was not necessary to comply NEPA's requirements of establishing an administrative record on environmental impacts.

The early e-mail traffic indicated a concern with establishing a paper trail from the President to the Secretary. As early as

March 21, 1996, e-mail traffic between Linda Lance (Office of the Vice President) and Kathleen McGinty and others comment on several drafts of a letter that was to come from the President to Secretary Babbitt requesting information on lands in Utah eligible for monument designation. Solicitor Leshy was informed of the importance of past practice on this important legal point. "As I recall, the advice we have given over the last couple of decades is that, in order to minimize NEPA problems on Antiquities Act work, it is preferable to have a letter from the President to the Secretary asking him for his recommendations. Here are my questions: . . .

5. If the President signs a proclamation, and a lawsuit is then brought challenging lack of Secretarial NEPA compliance, could a court set aside the proclamation; i.e. what is the appropriate relief?

Please give me your . . . reactions by return e-mail, and keep this close."—(April 24, 1996, e-mail from Sam Kalen to John Leshy and others.)

Even earlier, on March 20, 1996, Kathleen McGinty evinced concern that the paper trail needed to be created as quickly as possible to justify Interior's actions under the Antiquities Act: "attached is a letter to Babbitt as we discussed yesterday that makes clear that the Utah monument action is one generated by the executive office of the president, not the agency. . . . ideally it should go tomorrow."—(March 20, 1996, e-mail from Kathleen McGinty to Tom Jensen)

The lack of a Presidential letter making the request is critical. The NEPA requirements for notice, comment, and public process safeguards would ordinarily apply to a major federal action designating lands that were initiated outside of the Antiquities Act process. CEQ staff apparently knew this approximately six months before the actual decision that a record needed to be established with a request from the President to Secretary Babbitt. Time was of the essence, at least in the early part of 1996, before legislative activity on the Utah wilderness bill ended.

The record is clear that from start to finish, this was an abuse of Presidential discretion, designed to gain political advantage at the expense of the people of Utah—all the while keeping the decision behind closed doors for as long as possible.

**HIGHLIGHTS OF SELECT UTAH MONUMENT RECORDS: A GLIMPSE OF THE ABUSE OF TRUST AND DISCRETION**

As early as August 3, 1995, the Department of the Interior discussed the use of the Antiquities Act to withdraw land for the Utah Monument. In a memo to "Raynor" and "Baum," from "Dave" (all within the DOI Solicitor's Office) discussed the legal risks involved with DOI studying lands for national monument status. He noted that: "To the extent the Secretary [of the Interior] proposes a national monument, NEPA applies. However, monuments proposed by the president do not require NEPA compliance because NEPA does not cover presidential actions. To the extent that the president directs that a proclamation be drafted and an area withdrawn as a monument, he may direct the Secretary of the Interior to be part of the president's staff and to undertake and complete all the administrative support. This Interior work falls under the presidential umbrella."

This realization—that the administrative record must make it look like the idea came from the President, and not from an agency, in order to avoid NEPA compliance—is a

dominant theme manifested throughout the documents. The idea was to create the false impression that this was an idea that came from the President, instead of from the Department of the Interior.

In a March 19, 1996, e-mail from Linda Lance (CEQ director for Land Management) to Tom Jensen (CEQ) and other CEQ staff, Ms. Lance states: "attached is a letter to Babbitt as we discussed yesterday that makes clear that the Utah monument action is one generated by the executive office of the president, not the agency."

This letter was never signed until August 7, 1996, and indeed may never have been sent.<sup>3</sup> This is significant because it demonstrates an effort—beginning with DOI in 1995—to construct an Antiquities Act rationale to circumvent NEPA. All the while, meetings and work on the monument designation are proceeding within and between DOI, CEQ, and Department of Justice.

A draft letter from Kathleen McGinty on behalf of the President to Babbitt also makes it very clear that one early motivation behind the monument idea was to circumvent Congress's authority over wilderness designations, and specifically to control the Utah wilderness debate. The draft says: "As you know, the Congress currently is considering legislation that would remove significant portions of public lands in Utah from their current protection as wilderness study areas. . . . Therefore, on behalf of the President I/we are requesting your opinion on what, if any, actions the Administration can and should take to protect Utah lands that are currently managed to protect wilderness eligibility, but that could be made unsuitable for future wilderness designation if opened for development by Congress. . . . The President particularly seeks your advice on the suitability of such lands for designation as national monuments under the Antiquities Act of 1906." (March 19, 1996 e-mail from Linda Lance (CEQ director for Land Management) to Tom Jensen (CEQ) and other CEQ staff.)

This blatant disregard for Congressional authority over public lands is further evidence that staff was attempting to construct a path around NEPA and Congress.

On March 21, 1996, Linda Lance wrote another e-mail message to Kathleen McGinty responding to comments Ms. McGinty had made about the draft letter. She commented: "I completely agree that this can't be pitched as our answer to their Utah bill. But I'm having trouble deciding where we go from here. If we de-link from Utah but limit our request for info to Utah, why? If we instead request info on all sites that might be covered by the antiquities act, we probably get much more than we're probably ready to act on, including some that might be more compelling than the Utah parks? Am I missing something or lacking in creativity? Is there another Utah hook? Whatdya think?"

This communication makes two things clear. First, in addition to helping the Clinton-Gore campaign, the purpose of the monument was to circumvent Congressional control over Utah lands. This was a direct re-

sponse to proposed Utah wilderness legislation. Second, CEQ staff concluded that they had to come up with a facade, "another Utah hook", so their real motivations weren't exposed.

This e-mail message evinces CEQ knowledge that other lands were much better suited to monument designation. In fact, the next day—March 22, 1996—Linda Lance sent another e-mail to TJ Glauthier at OMB and Kathleen McGinty at CEQ that expounded on this problem. She stated that the real problem with drafting a request letter that singled out Utah lands was: "the political consequences of designating these lands as monuments when they're not threatened with losing wilderness status, and they're probably not the areas of the country most in need of this designation."

She concluded the e-mail message by prophetically questioning whether: "the bad guys [will] . . . have the chance to suggest that this administration could use this authority all the time all over the country, and start to argue that the discretion is too broad?"

It is interesting to note that the Administration staff foresaw the kind of uproar the Utah Monument would cause. Ms. Lance recognized first, that people would see this as a blatant abuse of Presidential authority, and second that there may be cause to narrow the President's discretion under the Act. This process is currently underway with the successful passage in the House of the National Monument Fairness Act of 1997. Other amendments to the Antiquities Act and NEPA are currently under consideration by Members of the House Committee on Resources.

On March 25, 1996, Kathleen McGinty stated that she agreed with these doubts about the Utah Monument. In fact she was so convinced that the lands in question weren't in any real danger that she was ready to drop the whole project. She noted in an e-mail message to TJ Glauthier at OMB and Linda Lance at CEQ that: "i'm increasingly of the view that we should just drop these Utah ideas. we do not really know how the enviros will react and I do think there is a danger of "abuse" of the withdraw/antiquities authorities especially because these lands are not really endangered."

A March 27, 1996, e-mail from Linda Lance at CEQ to Robert Vandermark at CEQ shows that DOI was trying to push the monument designation despite the lack of endangered lands. Lance stated: "since i and i think others were persuaded at yesterday's meeting w/ interior that we shouldn't write off the canyonlands and arches monuments just yet, here's another try at a draft letter to Babbitt to get this process started."

It is clear the DOI was still advocating the monument despite the fact that CEQ was ready to drop the project. Even the DOI Solicitor's Office concluded that case law requires full compliance with NEPA's requirements when national monument proposals come out of DOI.

At this point the monument idea had been tailored to respond to the Utah wilderness bills in Congress. The areas in question were centered around Arches National Park and Canyonlands National Park—areas that were in no danger of losing protection. At this point no mention had been made about the Kaiparowits Plateau or saving the West from Andalex Coal mining.

The Kaiparowits Plateau was first mentioned by Tom Jensen at CEQ in an e-mail to Linda Lance, T. Glauthier (OMB) and Kathleen McGinty on March 27, 1996. He states

that in the latest version of the proposed Clinton letter to Babbitt, he had added a reference to Glen Canyon National Recreation Area "because KM [probably Kathleen McGinty] and others may want to rope in the Kaiparowits and Escalante Canyons regions if this package ultimately doesn't seem adequate to the President's overall purpose."

By "rop[ing] in the Kaiparowits," the Administration would effectively quash the Andalex Coal Mine—in spite of the fact that the NEPA process (already under way) was incomplete for the mine. Until that process was completed, it would be impossible to know whether the mine would have any negative impact on the environment. Unconcerned with the ultimate conclusion of these environmental impact studies, the Administration wanted Kaiparowits included so they could claim that there were some "endangered" lands to be "protected" by the monument.

It is worth noting that the Chairman and Subcommittee Chairman has requested the draft Andalex Coal mine EIS five times since March 1997 for purposes of committee oversight and legislative needs, but the Secretary has failed to provide the record as requested.

By April 1996, DOI was starting to get frantic about the idea that they were in violation of NEPA by continuing to go forward on the national monument idea without prior Presidential direction. In an April 25, 1996 e-mail, Sam Kalen of the DOI Solicitor's office noted this concern to Solicitor John Leshy and colleagues Dave Watts and Robert Baum: "As I recall, the advice we have given over the last couple of decades is that, in order to minimize NEPA problems on Antiquities Act work, it is preferable to have a letter from the President to the Secretary asking him for his recommendations."

As late as July 23, 1996, CEQ was still trying to get Bill Clinton to sign a letter to send to Babbitt. In an e-mail from Tom Jensen (CEQ) to Peter Umhofer at the White House, Mr. Jensen begged: "I need your help. The following needs to be transformed into a signed POTUS letter ASAP. The letter does not need to be sent, it could be held in an appropriate office . . . but it must be prepared and signed ASAP."

On July 25, 1996, Kathleen McGinty sent a memo to the President with an attached, suggested letter to Babbitt. This is also the first time, as far as we can tell from the documents, that CEQ mentions the Andalex coal mine as an excuse for the national monument.

By this time it is obvious that Interior had been working on the Utah Monument for quite some time. In fact., three days later, on July 26, 1996, John Leshy sent a letter to University of Colorado law professor Charles Wilkinson asking him to draw up the actual proclamation. Included with the letter was a package of materials that Interior had put together on their monument proposal. Note that at this same time CEQ was still frantically trying to get the President to agree to send Babbitt a request to start looking at the lands in question. However, the DOI work was already underway. In this case, things were being done in exactly the reverse order.

On July 29, 1996, Kathleen McGinty sent an e-mail to Todd Stern at the White House pleading for the President to sign something. She noted that the "letter needs to be signed asap so that [the] secy has what looks like a credible amount of time to do his investigation of the matter."

The President finally signed the letter authorizing DOI to begin its work on August 7,

<sup>3</sup>Whether DOI ever actually received the Clinton letter is at issue because: (1) DOI was asked to provide all Utah Monument documents to the Committee, but never supplied the August 7, 1996, copy signed by President Clinton—that version was supplied to the Committee by the White House after the Chairman was authorized on September 25, 1997 to subpoena Utah Monument documents; and (2) this strategy—to create the letter as a paper trail but never send it—was discussed in White House e-mail traffic.

1996, but it seems that the final decision to create a Grand Staircase-Escalante National Monument had already been made—by someone—on or before July 29, 1996, as evidenced by the July 29 e-mail from Kathleen McGinty to Todd Stern: "The President will do the Utah event on Aug 17."

The documents show, however, that for some reason, the White House decided not to go ahead with the August 17 announcement date. On August 5, 1996, Kathleen McGinty sent a memo to Marcia Hale at the White House telling her that Leon Panetta wanted them to call several western Democrats to get their reactions to a possible monument proclamation. She noted that "[t]he reactions to these calls, and other factors, will help determine whether the proposed action occur." She also emphasized that the whole thing should be kept secret, noting that "any public release of the information would probably foreclose the President's option to proceed." It seems that at this point, the focus had shifted from pre-empting Congressional authority over Utah wilderness to creating a Presidential campaign event. The announcement had to be postponed until Democratic politicians could be consulted.

On August 14, 1996, Kathleen McGinty sent the President a memo outlining the possible places to have the photo-op announcement event. The three options discussed were (1) an oval office setting; (2) on the Utah lands themselves; or (3) at Jackson Hole, Wyoming. Ms. McGinty noted that Secretary Babbitt thought that the Utah option would be the most "confrontational" or "in-your-face" event. Ms. McGinty commented that she thought that all three options sounded good to her. Since the event was designed to be an election year photo-op, the Arizona setting became the choice.

In this memo Ms. McGinty reveals the real purpose of the monument: "The political purpose of the Utah event is to show distinctly your willingness to use the office of the President to protect the environment. In contrast to the Yellowstone ceremony, this would not be a "feel-good" event. You would not merely be rebuffing someone else's bad idea, you would be placing your own stamp, sending your own message. It is our considered assessment that an action of this type and scale would help to overcome the negative views toward the Administration created by the timber rider. Designation of the new monument would create a compelling reason for persons who are now disaffected to come around and enthusiastically support the Administration."

She also underscored the potential political benefits in key western states, as confirmed by the non-Utah Democratic politicians who had been consulted: "In addition, the new monument will have particular appeal in those areas that contribute the most visitation to the parks and public lands of southern Utah, namely, coastal California, Oregon and Washington, southern Nevada, the Front Range communities of Colorado, the Taos-Albuquerque corridor, and the Phoenix-Tucson area. This assessment squares with the positive reactions by Sen. Reid, Gov. Romer, and Rep. Richardson when asked their view on the proposal."

Finally, she added that the Administration really didn't have anything to lose, as far as votes are concerned: "Opposition to the designation will come from some of the same parties who have generally opposed the Administration's natural resource and environmental policies and who, in candor, are unlikely to support the Administration under any circumstances."

The situation was painted as a no-lose political situation. Translation: The monument designation will help solidify Clinton's electoral base—whole those who will object to the monument, as in Utah, will oppose Clinton's re-election anyway. They did not matter.

The event was postponed further. On August 23, 1996, Kathleen McGinty wrote another memo to the President begging him to act on the monument soon. She stated, "in any event, we need to decide this soon, or I fear, press leaks will decide it for us."

The leak finally occurred. In a September 6, 1996, memo from Kathleen McGinty to the President, she informed him that "the Washington Post is going to run a story this weekend reporting that the Administration is considering a national monument designation." She also told him that "we are working with Don Baer and others to scope out sites and dates that might work for an announcement on this issue."

After the September 7, 1996, Washington Post article, Senator Bennett wrote to Secretary Babbitt requesting the Administration not to take such a drastic step without time for significant public input. Secretary Babbitt responded on September 13—just five days before the event announcing the Utah Monument—telling him that nothing was imminent and that no decisions had yet been made.

It is important to note that two days earlier, on September 11, 1996, Tom Kenworthy, a Washington Post reporter, had confirmed the whole story—including the date, time, and exact location of the announcement event at the Grand Canyon. In a September 11 e-mail to Brian Johnson, CEQ's press spokesman, Kenworthy confirmed he had all the information he needed: "south rim of the grand canyon, sept 18—be there or be square." While the Utah Monument designation was being concealed from the entire Utah Congressional delegation, it had already been revealed to the Washington press. This strategy worked to the Administration's advantage by encouraging press interest in the event, while effectively eliminating the possibility of Congress stepping in to stop the proposed action.

On September 18, 1996, President Clinton, standing on the South Rim of the Grand Canyon, with nature's splendor as his backdrop, finally got his photo-op. He told the nation that he was following in Teddy Roosevelt's footsteps, and that he was saving the environment from Dutch coal companies. It worked just like the Administration predicted. Bill Clinton locked up the environmental votes in the West and carried key western states like California, Arizona, and Nevada. Of course they lost Utah, but as Kathleen McGinty had predicted, Utahns are voters "who, in candor, are unlikely to support the Administration under any circumstances."

In the final analysis, the Utah Monument designation was all about politics. To achieve their political ends, the Clinton-Gore Administration contorted a century-old statute and evaded the environmental requirements they foist on others. The Administration took pains to see that no one knew about this decision until the last minute, even to the point of deceiving the entire Utah Congressional delegation—all so they could get a political photo-op out of the monument proclamation, and preclude any Congressional action that might stop the event. It comes as no surprise the announcement event was finally held not in Utah, but across the Grand Canyon in more hospitable

Arizona. This was an abuse of discretion under the Antiquities Act and a violation of NEPA by the Clinton-Gore Administration.

August 3, 1995.

To: Raynor Baum.  
Re: Antiquities Act.

Attached are some sample Pres proclamations. Some just designate the monument, other designate and withdraw the monument. It would follow that anwr could be designated—a prestige issue—without a further withdrawal of land.

We should meet. I think we have enough materials for a meeting with John. He was not looking for a paper, but rather a brief talk about the choices and legal risks.

Dave.

#### PRESIDENTIAL PROCLAMATIONS

1. The Antiquities Act of 1906 provides: "The President . . . is authorized, in his discretion, to declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated upon the lands owned or controlled by the Government . . . to be national monuments, and may reserve as part thereof parcels of lands, the limits of which in all cases shall be confined to the smallest area compatible with the proper care and management of the objects to be protected. 16 U.S.C. §431."

2. History: "Many areas of the National Park System were originally established as national monuments under this act and placed under the care of the Department of the Interior to be administered by the National Park Service under the Service's Organic Act of 1916. 16 U.S.C. §1. The most recent proclamations were signed by President Carter and established various Alaska monuments, the predecessors to the national parks and preserves eventually established by the Alaska National Interest Lands Conservation Act."

3. Analysis: When the president undertakes the preparation of a proclamation, the restrictions of the law must be carefully observed and documented. The lands must be federally owned or controlled. Private and state lands are excluded.

The area must be the smallest area compatible with management of the objects. Although broad discretion is vested in the president, the administrative record must reflect the rationale basis for the acreage.

Most areas of the National Park System were established because of objects of historic or scientific interest. Again, an administrative record must be established regarding the objects to be protected and their significance properly demonstrated.

4. Other Laws: The Federal Land Policy and Management Act, 43 U.S.C. §1701, does not preclude or restrain presidential proclamations, even though it has restrictions on other forms of public land withdrawals of areas over 5,000 acres. See 43 U.S.C. §1714(c)(1).

To the extent the Secretary proposes a national monument, NEPA applies. However, monuments proposed by the president do not require NEPA compliance because NEPA does not cover presidential actions. To the extent that the president directs that a proclamation be drafted and an area withdrawn as a monument, he may direct the Secretary of the Interior to be part of the president's staff and to undertake and complete all the administrative support. This Interior work falls under the presidential umbrella.

5. Litigation: "I have attached the most recent case involving the Alaska monuments.

The case is instructive and should be read, understood and followed. Careful observance of the administrative and institutional structures as well as a focused administrative record will enhance success in the court house."

Record Type: Federal (all-in-1 mail).  
 Creator: Kathleen A. McGinty (McGinty, K.) (CEQ).  
 Creation Date/Time: 20-MAR-1996 08:01:40.12.  
 Subject: Utah letter to Babbitt.  
 To: Thomas C. Jensen.  
 Text: "I don't have this document. But, I want to see it personally and clear off on it." thx.

## ATTACHMENT 1

Att Creation Time/Date: 19-MAR-1996 19:02:00.00.  
 Att Bodypart Type: E.  
 Att Creator: CN=Linda L. Lance/O=OVP.  
 Att Subject: Letter to Babbitt re monuments.  
 Att To: McGinty, K; Glauthier, T; Jensen, T; Bear, D; Fidler, S; Crutchfiel, J; Shuffield, A.  
 Text: "Message Creation Date was at 19-MAR-1996 19:02:00"  
 Attached is a letter to Babbitt as we discussed yesterday that makes clear that the Utah monument action is one generated by the Executive Office of the President, not the agency. Craig drafted and I edited.

It seems to me it could go from Katie and/or TJ rather than having to go through the clearance process for the pres. signature since time is a concern, but Dinah should sign off on that, and it could be done either way.

Also, do we know whether the canyonlands and arches areas we're considering would be affected by the Utah wilderness bill—see my question in bold on the attachment.

Katie and TJ, you should agree on how to sign this, and then one of your offices can just finalize and sent it out. Ideally it should go tomorrow. If you want to discuss, just yell.

## ATTACHMENT 2

Att Creation Time/Date: 19-MAR-1996 19:01:00.00.  
 Att Bodypart Type: D.  
 Text: "The following attachments were included with this message".

## ATTACHMENT 3

Att Creation Time/Date: 19-MAR-1996 19:01:00.00.  
 Att Bodypart Type: P.  
 Att Subject: Parksltr.  
 Text: "Dear Secretary Babbitt,  
 The President has asked that we contact you to request information within the expertise of your agency. As you know, the Congress currently is considering legislation that would remove significant portions of public lands in Utah from their current protection as wilderness study areas. Protection of these lands is one of the highest environmental priorities of the Clinton Administration.

Therefore, on behalf of the President I/we are requesting your opinion on what, if any, actions the administration can and should take to protect Utah lands that are currently managed to protect wilderness eligibility, but that could be made unsuitable for future wilderness designation if opened for development by Congress. [Do the canyonlands and arches areas fit this description? Are they threatened by the Utah wilderness bill? Is there a better way to de-

scribe the relevant lands?] The President particularly seeks your advice on the suitability of such lands for designation as national monuments under the Antiquities Act of 1906.

The President wishes to act to protect these lands as expeditiously as possible, particularly given the threat from pending congressional action. Please respond as soon as possible. If there are land areas that you have already reviewed and that may be appropriate for immediate action, please provide that information separately and as soon as possible.

Thank you for your assistance.

Katie and/or TJ.

Record Type: Federal (ALL 1-1 MAIL).  
 Creator: Thomas C. Jensen (JENSEN, T) (CEQ).  
 Creation Date/Time: 20-MAR-1996 08:26:53.99  
 Subject: Linda's park letter to babbitt.  
 To: Thomas C. Jensen.  
 Read: 20-MAR-1996 08:27:08.41.  
 To: Kathleen A. McGinty.

Text: Dear Secretary Babbitt,

The President has asked that we contact you to request information within the expertise of your agency. As you know, the Congress currently is considering legislation that would remove significant portions of public lands in Utah from their current protection as wilderness study areas. Protection of these lands is one of the highest environmental priorities of the Clinton Administration.

Therefore, on behalf of the President I/we are requesting your opinion on what, if any, actions the Administration can and should take to protect Utah lands that are currently managed to protect wilderness eligibility, but that could be made unsuitable for future wilderness designation if opened for development by Congress. [do the canyonlands and arches areas fit this description? are they threatened by the Utah wilderness bill? is there a better way to describe the relevant lands?] The President particularly seeks your advice on the suitability of such lands for designation as national monuments under the Antiquities Act of 1906.

The President wishes to act to protect these lands as expeditiously as possible, particularly given the threat from pending congressional action. Please respond as soon as possible. If there are land areas that you have already reviewed and that may be appropriate for immediate action, please provide that information separately and as soon as possible.

Thank you for your assistance.

Katie and/or TJ.

Record Type: Federal (EXTE. L MAIL).  
 Creator: CN=Linda L. Lance.  
 Creation Date/Time: 21-MAR-1996 18:36:00.00.  
 Subject: Re: KM's comments on yesterday's monument letter.  
 To: McGinty, K; jensen, t; bear, d; crutchfiel, j; glauthier, t.

TEXT: Message Creation Date was at 21-MAR-1996 18:40:00.

I completely agree that this can't be pitched as our answer to their Utah bill. but I'm having trouble deciding where we go from here. if we delink from Utah but limit our request for info to Utah, why? if we instead request info on all sites that might be covered by the antiquities act, we probably get much more than we're probably ready to act on, including some that might be more compelling than the Utah parks? am i miss-

ing something or lacking in creativity? is there another Utah hook? what'dya think?

I'm getting concerned that if we're going to do this we need to get this letter going tomorrow. almost everything else is pretty much ready to go to the president for decision, although some drafting of the formal documents like pres. memos still needs to be done.

Thanks for you help.

Record Type: Federal (External Mail).  
 Creator: CN=Linda L. Lance.  
 Creation Date/Time: 22-MAR-1996 18:56:00.00.  
 Subject: redraft of president's babbitt letter and question.  
 To: Glauthier, T; McGinty, K; Jensen, T; Bear, D; Crutchfiel, J; Beard, B.  
 Text: Message Creation Date was at 22-MAR-1996 19:00:00.

Attached is a minimalist approach to the letter to Babbitt. Contrary to what justice may have suggested, I think it's important that he limit the inquiry to lands covered by the antiquities act, since that's the area in which he can act unilaterally. To make a broader request risks scaring people, and/or promising followup we can't deliver.

I realized the real remaining question is not so much what this letter says, but the political consequences of designating these lands as monuments when they're not threatened with losing wilderness status, and they're probably not the areas of the country most in need of this designation. Presidents have not used their monument designation authority in this way in the past—only for large dramatic parcels that are threatened. Do we risk a backlash from the bad guys if we do these—do they have the chance to suggest that this administration could use this authority all the time all over the country, and start to argue that the discretion is too broad?

I'd like to get your view, and political affairs, on this. Maybe I'm overreacting, but I think we need to consider that issue.

## ATTACHMENT 1

Att Creation Time/Date: 22-MAR-1996 18:59:00.00.  
 Att Bodypart Type: D.  
 Text: The following attachments were included with this message.

## ATTACHMENT 2

Att Creation Time/Date: 22-MAR-1996 18:59:00.00.  
 Att Bodypart Type: p.  
 Att Subject: Parkpres.

Text: Dear Secretary Babbitt,

It has come to my attention that there may be public lands in Utah that contain significant historic or scientific areas that may be appropriate for National Monument status under the Antiquities Act of 1906. Therefore, I am requesting any information available to your Department on Utah lands owned or controlled by the United States that contain historic landmarks, historic or prehistoric structures, or other objects of historic or scientific interest.

Please respond as soon as possible. If there are land areas that you have already reviewed and that may be appropriate for immediate consideration, please provide that information separately and as soon as possible.

Thank you for your assistance.

WJC.

25888

Record Type: Federal (External Mail)  
Creator: McGinty  
Creation Date/Time: 25-MAR-1996 13:21:00.00.  
Subject: Re: redraft of president's Babbitt letter and question  
To: T. J. Glauthier; Linda L. Lance; Jensen T.; Bear, D.; Crutchfield, J.; Beard, B.

Text: I'm increasingly of the view that we should just drop these Utah ideas. We do not really know how the enviros will react and I do think there is a danger of "abuse" of the withdraw/antiquities authorities especially because these lands are not really endangered.

Record Type: Federal (All-in-1 Mail).  
Creator: Thomas C. Jensen (JensenXT) (CEQ)  
Creation Date/Time: 25-MAR-1996 13:29:44.93.  
Subject: Potus letter re-do  
To: Linda L. Lance; T. J. Glauthier; James Craig Crutchfield; Bruce D. Beard; Dinah Bear; Kathleen A. McGinty.

Text: Attached is my re-do of the draft potus letter to Babbitt. I've added the reference to Glen Canyon NRA for two reasons: first, because some of the lands we're reviewing next to Canyonlands are more proximate to GCNRA. Second, because KM and others may want to rope in the Kaiparowits and Escalante Canyons regions (which are adjacent to GCNRA) if this package ultimately doesn't seem adequate to the President's overall purpose. Call if you've got any questions.

You're doing a great job.

TOM.

ATTACHMENT 1

Att Creation Time/Date: 25-MAR-1996 13:25:00.00.  
Att Bodypart Type: p.  
Att Creator: Thomas C. Jensen.  
Text: Dear Secretary Babbitt,

It has come to my attention that there may be public lands adjacent to Glen Canyon National Recreation Area, Canyonlands National Park and Arches National Park in Utah that contain significant historic or scientific areas that may be appropriate for protection through National Monument status under the Antiquities Act of 1906. Therefore, I am requesting any information available to your Department on lands owned or controlled by the United States adjacent to Glen Canyon National Recreation Area, Canyonlands National Park or Arches National Park that contain historic landmarks, historic or prehistoric structures, or other objects of historic or scientific interest.

Please respond as soon as possible. If there are land areas that you have already reviewed and that may be appropriate for immediate consideration, please provide that information separately and as soon as possible.

Thank you for your assistance.

WJC.

Record Type: Federal (All-in-1 mail).  
Creator: Kathleen A. McGinty (McGinty K) (CEQ).  
Creation date/time: 27-Mar-1996 15:49:36.19.  
Subject: pls discuss this with tom.  
To: Robert C. Vandermark

Text: Rob, I want to see this letter and comment. pls coordinate with tom so we send one set of comments back to Linda.

EXTENSIONS OF REMARKS

ATTACHMENT 1

ATT bodypart Type: E  
ATT: Creator: CN=Linda L. Lance/O=OVP  
ATT Subject: another Babbitt letter draft  
To: McGinty; K; Jensen, T; Bear, D; Crutchfield, J; Beard B; Glauthier T  
Text: Message Creation Date was at 27 Mar 1996 12:40:00.

since i and i think others were persuaded at yesterday's meeting w/ interior that we shouldn't write off the canyonlands and arches monuments just yet, here's another try at a draft letter to babbitt to get this process started. if this looks ok, i'd like to run it by justice before it goes out.

tj was going to try to get offices together to discuss the monuments issue, and we need to do that. but since we're now looking at 4/9 as a possible announcement date, i'd propose getting this letter agreed on and getting a decision memo to the president just on sending the letter to interior. even if we don't ultimately do the monument, it won't hurt to have this letter go out and have interior formally return info to us. we'll never have this ready by 4/9 if a letter doesn't go soon. according to justice, the info justice has seen so far isn't an adequate admin record, so interior will have some work to do.

i'll try to draft a short decision memo to the president on sending this letter (for tj and katie's signature??) so that you all can look at it today. let me know if you have problems w/ this approach, or comments on the letter.

ATTACHMENT 2

ATT Creation time/date: 27 Mar 1996 12:41:00.00  
ATT Bodypart Type D  
Text: The following attachments were included with this message:

ATTACHMENT 3

ATT Creation time/date 27 Mar 1996 12:41:00.00  
ATT Bodypart Type: p  
ATT Subject: Parkpres  
Text: Dear Secretary Babbitt,

It has come to my attention that there may be public lands adjacent to Canyonlands and Arches National Parks in Utah that contain significant historic or scientific areas that may be appropriate for protection through National Monument status under the Antiquities Act of 1906. Therefore, I am requesting any information available to your Department on lands owned or controlled by the United States adjacent to Canyonlands or Arches National Parks that contain historic landmarks, historic or prehistoric structures, or other objects of historic or scientific interest.

Please respond as soon as possible. If there are land areas that you have already reviewed and that may be appropriate for immediate consideration, please provide that information separately and as soon as possible.

Thank you for your assistance.

WJC.

Record Type: Federal (External mail).  
Creator: CN=Linda L. Lance.  
Creation date/time: 29-MAR-1996 19:00:00.00.  
Subject: Monday meeting w/Interior and question.  
To: Jensen T; McGinty K; Galauthier T  
Text: Message Creation Date was at 29-MAR-1996 19:01:00.

Tom and I agreed that the fastest way to come to closure on remaining monument/

November 9, 1997

Utah issues is for he and I to go to Interior on Monday to meet with Anne Shield, NPS folks, and solicitors office. Anne has agreed to schedule something for 2 p.m. Monday in the secretary's conference room. Tom I really hope that works for you, or that you can rearrange to attend. If not, let me know what will work for you on Monday p.m.

If Katie or TJ want to attend and it helps to move it here, we can do that, but I think we need to get with them soon. We'll push them on new wilderness inventory and Kaparowitz/Escalante.

The question I have for you guys is why does Anne react so negatively to the idea of having George Frampton there? I told her I'd left a message for him in Colorado, and thought he should be at the meeting, and she gave me a lecture about how he wouldn't have the necessary info, hadn't been involved, she had no idea when he'd be back in D.C., we need to have Destrly there, etc.

Is there a reason for me to insist on scheduling this when Frampton can be there? Does he have a perspective on this that they don't? Is there some friction between him and the NPS folks that have been involved? Let me know. Thanks.

COUNCIL ON ENVIRONMENTAL QUALITY,

WASHINGTON DC, MARCH 29, 1996.

MEMORANDUM FOR THE PRESIDENT  
FROM: KATHLEEN A. MCGINTY  
RE: ATTACHED LETTER TO SECRETARY BABBITT FOR YOUR SIGNATURE

I. ACTION-FORCING EVENT

As you know, we are putting together a package of national park protection actions for your consideration that, if you approve, may be announced at an event on April 9. As part of that initiative, and in response to the threat to Utah wilderness lands that was posed by the recently-defeated Republican parks bill, we have been reviewing Utah public lands to ensure that we are doing everything possible to provide appropriate protection to those lands. We have focused particularly on public lands that contain historic or scientific resources or are threatened by development.

It has come to my attention that there may be federally-owned lands adjacent to Glen Canyon National Recreation Area, Canyonlands National Park and Arches National Park in Utah that may warrant protection as national monuments. Statutory authority to issue a proclamation declaring public lands to be national monuments is available only to the President, who cannot delegate such authority.

Case law interpreting this authority has further held that the President can request information from his advisors on the suitability of certain lands for such designation, but that the action must be initiated by the President, not an advisor. For that reason, it is necessary that you formally request Secretary Babbitt to provide you with such information before we can obtain the necessary background to consider such designation on the merits. We need to do that as soon as possible so that this designation can be completed in time for a possible April 9 announcement. The attached letter makes that request.

II. BACKGROUND ANALYSIS

The Antiquities Act of 1906 provides the President with discretionary authority to declare by public proclamation objects of historic or scientific interest that are on lands owned or controlled by the Government to be national monuments. Only an

November 9, 1997

## EXTENSIONS OF REMARKS

25889

Act of Congress can disestablish a monument.

Reservation as a national monument generally offers protection to the area comparable to that of a National Park, including closure to future mineral leasing claims. The agency managing the monument can grandfather existing uses of the land, such as grazing permits.

No final decision about the designation of Utah lands as national monuments can be made without additional material from the Department of Interior. However, currently available information indicates that significant Bureau of Land Management acreage adjacent to each of the areas addressed in the letter contains historic and scientific objects of importance, including numerous archaeological sites, Indian rock art, geological formations and wildlife habitat.

### III. RECOMMENDATION

I recommend that you sign the attached letter requesting information on Utah lands from Secretary Babbitt

### IV. DECISION

—Approve —Approve as amended —Reject  
—No action.

THE WHITE HOUSE,

Washington, March 29, 1996.

HON. BRUCE BABBITT,  
Secretary of the Interior, Washington, D.C.

DEAR BRUCE: It has come to my attention that there may be public lands adjacent to Glen Canyon National Recreation Area, Canyonlands National Park and Arches National Park in Utah that contain significant historic or scientific areas that may be appropriate for protection through National Monument status under the Antiquities Act of 1906. Therefore, I am requesting any information available to your Department on lands owned or controlled by the United States adjacent to Glen Canyon National Recreation Area, Canyonlands National Park or Arches National Park that contain historic landmarks, historic or prehistoric structures, or other objects of historic or scientific interest.

Please respond as soon as possible. If there are land areas that you have already reviewed and that may be appropriate for immediate consideration, please provide that information separately and as soon as possible.

Thank you for your assistance.

Sincerely,

BILL CLINTON.

Record type: Federal (All-in-1 IL).  
Creator: Kathleen A. McGinty (MCGINTY—K) (CEQ).

Creation date/time: 3-APR-1996 18:04:45.13.

Subject: parks meeting tomorrow

To: Linda L. Lance  
To: Thomas C. Jensen  
To: Lisa Guide

Text: For the meeting tomorrow at 3, I believe we need a short summary (1-2 pp) of all of the parts of the package. Thx. I see this as a major decision-making meeting. On the Utah pieces; on the overall package; on potus involvement. By the way Leshy said to me today that he thought there was no way they could get info on Kaiparowitz (sp?) and that Escalante was a maybe.

Record Type: Federal (All in-1 Mail).

Creator: James Craig Crutchfield (Crutchfield J) (OMB).

Creation date/time: 3-Apr-1996 10:09:39.50.

Subject: Parks Initiative update.

To: T.J. Glauthier; Ron Cogswell; Bruce D. Beard; Marvis G. Olfus; Linda L. Lance; Thomas C. Jensen.

Text: According to Linda Lance, the Parks Initiative is not currently on the President's schedule and no event is likely before the President's mid-April international trip. May/June is a more realistic timeframe. Interior may not be happy about this, but they created a false urgency by citing a pending Gingrich parks proposal. (It now appears that the only imminent Republican proposal is the Senate Omnibus lands bill, which is on hold because of Utah wilderness.)

Other key points:

Sufficiently Presidential? Linda and Tom Jensen met on Monday with Interior to address skepticism from the West Wing about whether the Initiative is worthy of a Presidential event. (Ann Shields grumbled that it would be Presidential if it retained the tax proposals.) They discussed three new candidates for National Monument designation in Utah (Kiparowitz, Grand Gulch, and Escalante), each with pros and cons, and Interior agreed to review these options further. Interior/NPS complained that their park proposal was morphing into a Utah proposal, but Tom and Linda dismiss this complaint.

POTUS letter to Babbitt was sent up for signature on Friday (3/31), but no word from W.H. Clerk on whether it was signed. By requesting Babbitt to provide information on lands in Utah for possible designation as National Monuments, this letter would establish the needed Administrative record to defend use of the Antiquities Act. The final letter was revised to reference other public lands around Glen Canyon NRA, leaving open the possibility for adding the sites noted above.

From: Sam Kalen 4/25/96 11:42AM

To: John Leshy, Dave Watts, Robert Baum.

cc: Edward Cohen.

Subject: Re: Antiquities Act.

As I recall, the advice we have given over the last couple of decades is that, in order to minimize NEPA problems on Antiquities Act work, it is preferable to have a letter from the President to the Secretary asking him for his recommendations. Here are my questions:

1. Is that right? Does it have to be in writing?

2. What is the optimum timing for such a letter—before we start any work?

3. Does the letter have to be public (is it foible at any time)? Could the President claim executive privilege or is there some other basis for withholding the letter, at least until the Secretary forwards recommendations?

4. Does the letter have to be specific geographically; e.g., "give me recommendations on use of the Act in Oregon" or "on BLM lands in western Oregon" or is "nationwide—anywhere on lands managed by agencies under your jurisdiction" OK?

5. If the President signs a proclamation, and a lawsuit is then brought challenging lack of Secretarial NEPA compliance, could a court set aside the proclamation; i.e., what is the appropriate relief?

Please give me your off-the-top-of-the-head reactions by return e-mail, and keep this close. Thanks.

I don't know what the Dept. has recommended or written in the past, but my

recollection (and I will check) is that the issue was raised in connection with Alaska v. Carter and I think the court indicated that EIS not needed when President asks for recommendation. And that case was decided well before more recent NEPA law—e.g., NAFTA case, which further suggests that Secretary's response to President would not be an "action" under NEPA; of course, one could also argue a Douglas County type analogy (status quo exception for designation of monument if NEPA even applied to Executive and thus surely status quo exception for the recommendation on such designation). Additionally, to make it even less like any action under NEPA, the President's request could be for a list of areas in a certain region that DOI already has indicated are WSAs, ACECs, etc. As for FOIA, couldn't we argue deliberative process exception until designation—with harm being that disclosure would prompt nuisance type activities in the area. sam.

Record type: Federal (All-in-1 Mail).

Creator: Thomas C. Jensen (Jensen, T) (CEQ).

Creation date/time: 23-Jul-1996 15:30:42.34.

Subject: Potus letter re: Utah.

To: Peter G. Umhofer

CC: Kathleen A. McGinty.

Text: Peter, I need your help.

The following text needs to be transformed into a signed POTUS letter ASAP. The letter does not need to be sent, it could be held in an appropriate office (Katie's? Todd Stern's?) but it must be prepared and signed ASAP.

You should discuss the processing of the letter with Katie, given its sensitivity.

Dear Secretary Babbitt, it has come to my attention that there may be public lands in the general area of Glen Canyon National Recreation Area in Utah that contain significant historic or scientific values that may be appropriate for protection through National Monument status under the Antiquities Act of 1906.

As I stated when I raised this with you in conversation some weeks ago, I would ask that you provide to me any information available to your Department on lands owned or controlled by the United States in the general area of Glen Canyon National Recreation Area in Utah that contain historic landmarks, historic or prehistoric structures, or other objects of historic or scientific interest. Please respond as soon as possible. If there are land areas that you have already reviewed and that may be appropriate for immediate consideration, please provide that information separately and as soon as possible.

Thank you for your assistance.

BC.

Record, type: Federal (all -1 Mail).

Creator: Thomas C. Jensen (Jensen—T) (CEQ).

Creation date/time: 25-JUL-1996 11:40:06.21.

To: Peter G

Text: Peter, Here's a redraft of the POTUS cover memo regarding the POTUS letter to Babbitt on Utah. I've rewritten it to meet suggestions from Todd Stern. These changes may also address questions that Wes raised.

Tom

ATTACHMENT 1

Att Creation time/date: 25-JUL-1996 11:38:00.00

ATT Bodypart Type:p

ATT Creator: Thomas C. Jensen

Text:

Memorandum to the president.

From: Kattie McGinty.

Subject: Attached letter to Secretary Babbitt.

We have prepared for your signature the attached letter to Interior Secretary Babbitt. The letter will serve as a critical piece of the administration record if, as we have discussed, you decide to designate certain lands in southern Utah as national monuments under the Antiquities Act of 1906.

The Antiquities Act provides you with executive authority to set aside federal lands as national monuments in order to protect objects of scientific or historic interest. The authority has been used numerous times in the last ninety years, and served as the basis for creation of many of the Nation's most important protected areas. Many national parks in the West, including most in Utah, were originally set aside under the Antiquities Act. For example, Grand Canyon, Grand Teton, Arches, Capitol Reef, Cedar Breaks, Dinosaur, National Bridges, and Zion were originally protected by presidential orders issued under the Antiquities Act.

The purpose of the attached letter is to request from Secretary Babbitt information on federal lands in southern Utah that are suitable for monument designation. The letter serves to engage the Secretary in his role as executive staff to you.

Ordinarily, if the Secretary were on his own initiative to send you a recommendation for establishment of a monument, he would most likely be required to comply with NEPA and certain federal land management laws in advance of submitting his recommendation. But, because he is responding to your request for information, he is not required to analyze the information or recommendations under NEPA or the other laws. And, because Presidential actions are not subject to NEPA, you are empowered to establish monuments under the Antiquities Act without NEPA review.

The text of the letter is modeled after the letter sent by President Carter to the Interior Department seeking information on lands in Alaska suitable for monument designation. Based on the department's response and recommendations, President Carter set aside approximately 26 million acres as national monuments. The legality of the President's action was challenged by monument opponents, but was upheld by the federal courts. The letter to Interior was specifically cited by the courts as a principal basis for their finding of legality. We recommend that you sign the letter.

Washington, DC, July 25, 1996.

Memorandum to the President.

From: Kathleen A. McGinty.

Re: Attached letter to Secretary Babbitt.

We have prepared for your signature the attached letter to Secretary of the Interior Bruce Babbitt. The letter will serve as a critical piece of the administrative record if, as we have discussed, you decide to designate certain lands in southern Utah as national monuments under the Antiquities Act of 1906.

The Antiquities Act provides you with executive authority to set aside federal lands as national monuments in order to protect objects of scientific or historic interest. The authority has been used numerous times in the last ninety years, and served as the basis for creation of many of the Nation's most important protected areas. Many national parks in the West, including most in Utah, were originally set aside under the Antiquities Act. For example, Grand Canyon, Grand Teton, Arches, Capitol Reef, Cedar Breaks, Dinosaur, National Bridges, and Zion were originally protected by presidential orders issued under the Antiquities Act.

For example, Grand Canyon, Grand Teton, Arches, Capitol Reef, Cedar Breaks, Dinosaur, National Bridges, and Zion were originally protected by presidential orders issued under the Antiquities Act.

The purpose of the attached letter is to request from Secretary Babbitt information on federal lands in southern Utah that are suitable for monument designation. The lands in question represent a unique combination of archaeological, paleontological, geologic, and biologic resources in a relatively unspoiled natural ecosystem. Three general areas lying to the west of the Colorado River and to the east of Bryce Canyon National Park will be studied: the Grand Staircase, Kaiparowits Plateau, and Escalante Canyon region.

The Grand Staircase spans six major life zones, from lower Sonoran desert to Arctic-Alpine forest, and its outstanding rock formations present some four billion years of geology. The area includes numerous relict plant areas—rare examples of pristine plant ecosystems that represent the natural vegetative cover that existed in the region before domestic livestock grazing.

The Kaiparowits Plateau includes world class paleontological sites, including the best and most continuous record of Late Cretaceous terrestrial life in the world. The area includes thousands of significant archaeological sites, including the remnants of at least three prehistoric Indian cultures. The Kaiparowits includes the most remote site in the lower 48 states.

The Escalante Canyon region, includes some of the most scenic country in the West, significant archaeological resources, unique riparian ecosystems, and numerous historic sites and trails.

These lands were at the heart of the recent legislative battle over Utah wilderness. They are, in sum, much of what the parties were fighting over. Environmentalists value the area for its astonishing beauty, remoteness, and ecological integrity. Development interests want to tap the coal resources of the Kaiparowits Plateau and, through road construction open now wild areas to commercial use.

The Kaiparowits Plateau lies in the center of the area. Two companies hold leases to mine federal coal there. One company is working with Interior to surrender its Kaiparowits leases in exchange for rights to coal elsewhere in Utah. The other lease holder, a Dutch-owned coal company with plans to ship coal to Asia, has rebuffed Interior's offers to pursue a trade. Coal development on the Kaiparowits would damage the natural, cultural, and historic values of the entire area. Monument designations would not block the proposed coal mine, per se, but would help in a variety of ways to pressure the Dutch company to surrender its leases in exchange for coal elsewhere.

Should you decide, based on the Secretary's recommendations, to designate one or more national monuments in the area, your action will be widely and vigorously supported by national environmental groups and advocates. They will be stunned and delighted by the boldness and scope of the action. There will be significant public support in those areas in which most visitors to southern Utah reside, including California, Colorado, Arizona and the Salt Lake City area. National print media strongly supported the Administration's pro-Utah wilderness stance and can be expected to support monument designations.

Utah's congressional delegation and governor will be angered by the action. CEQ is

in consultation with the Counsel's office to identify measures to reduce adverse effects on matter within the control of the Senate Judiciary Committee, chaired by Senator Orrin Hatch (R-UT). Republicans are likely to characterize the action as an aspect of the so-called "War on the West."

The text of the attached letter is modeled after the letter sent by President Carter to the Department of the Interior seeking information on lands in Alaska suitable for monument designation. Based on the department's response and recommendations, President Carter set aside approximately 26 million acres as national monuments. The legality of the President's action was challenged by monument opponents, but was upheld by the federal courts. The letter to Interior was specifically cited by the courts as a principal basis for their findings of legality.

We recommend that you sign the letter seeking information and advice from Secretary Babbitt.

THE WHITE HOUSE,  
Washington, July 24, 1996.

Hon. Bruce Babbitt,

Secretary of the Interior, Washington, DC.

DEAR BRUCE: As I said in conversation with you some weeks ago, it has come to my attention that there may be public lands in the general area of Glen Canyon National Recreation Area in Utah that contain significant historic or scientific values that may be appropriate for protection through National Monument status under the Antiquities Act of 1906.

I would like for you to provide me any information available to your Department on lands owned or controlled by the United States in the general area of Glen Canyon National Recreation Area in Utah that contain historic landmarks, historic or prehistoric structures, or other objects of historic or scientific interest.

Please respond to this request as soon as possible. If there are land areas that you have already reviewed and that may be appropriate for immediate consideration, please provide that information separately and as soon as possible.

Thank you for your assistance.

Sincerely,

Record Type: Federal (All-in-1 Mail).

Creator: Kathleen A. McGinty (MCGINTY—K) (CEQ).

Creation date/time: 29-JUL-1996 09:31:39.65.

Subject: Utah letter.

To: Todd Stern.

Text: wanted to just reiterate what I said about the timeliness of the letter because I was worried that, on first iteration, I may have confused you.

The president will do the Utah event on Aug 17. However, we still need to get the letter signed ASAP. The reason: under the antiquities act, we need to build a credible record that will withstand legal challenge that: (1) the president asked the secy to look into these lands to see if they are of important scientific, cultural or historic value; (2) the secy undertook that review and presented the results to the president; (3) the president found the review compelling and therefore exercised his authority under the antiquities act. presidential actions under this act have always been challenged. they have never been struck down, however.

So, letter needs to be signed ASAP so that secy has what looks like a credible amount of time to do his investigation of the matter.

November 9, 1997

EXTENSIONS OF REMARKS

25891

we have opened the letter with a sentence that gives us some more room by making clear that the president and Babbitt had discussed this some time ago.

Many thanks.

[Document 36]

August 5, 1996.

Memorandum to Marcia Hale.  
From: Kathleen A. McGinty.  
Re: Utah Event Calls.

Leon Panetta asked that I prepare talking point for you to use in making calls to certain western elected officials regarding the proposed Utah event.

My notes indicate that Leon wanted you to call Governor Roy Romer, Governor Bob Miller, former Governor Mike Sullivan, former Governor Ted Schwinden, Senator Harry Reid, Senator Richard Bryan, and Representative Bill Richardson to test the waters and gather their reactions.

The reactions to these calls, and other factors, will help determine whether the proposed action occur. If a final decision has been made on the event, and any public release of the information would probably foreclose the President's option to proceed.

I would be happy to speak with you about this or provide any additional information you may require. If I am unavailable, Wesley Warren and Tom Jensen of my staff are prepared to assist you.

Attachment.

August 14, 1996.

Memorandum to the President.

From: Katie McGinty.  
Subject: Proposed Utah Monument Designation and Event.

INTRODUCTION AND BACKGROUND

This memo responds to your request yesterday for additional information on the proposed event at which you would announce designation of certain BLM lands in Utah as a national monument.

In brief, the current proposal is that you should use your authority under the Antiquities Act of 1906 to establish the "Grand Staircase-Escalante National Monument," a new national monument covering approximately 1.7 million acres of federal land in Utah managed by the Interior Department's Bureau of Land Management.

At your direction, the Secretary of the Interior, in cooperation with the Department of Justice, has prepared the analyses and documents that are required to support creation of the proposed new national monument. A draft version of those materials is attached for your information. Final versions should be transmitted to the White House today and should be ready for execution within 24 hours.

OPTIONS FOR ANNOUNCEMENT

Three alternate events have been discussed to frame announcement of your action. Some advisors believe that the announcement should take place in a formal Oval Office-type setting, so as to emphasize the presidential character of the action. This course would allow the most scheduling flexibility.

Other advisors recommend that you make the announcement on or near the lands to be covered by the monument designation. The area is very scenic and would offer great, unique visuals, but the country is rough and remote with difficult logistics. The first attached sheet of photos shows views of or from potential event sites on lands covered by the new monument designation. The landscape is serene, but strikingly beautiful. Be-

cause of good air quality, views extend beyond 100 miles. Morning and afternoon light bring out the land's colors best. August weather is hot, probably windy, with a chance of afternoon and evening thunderstorms.

The closest town with an airport capable of handling jet aircraft is Page, Arizona, a small town located on the Arizona-Utah border next to Lake Powell and Glen Canyon Dam. Travel time from the Page airport to the most likely event locations would be roughly 15 minutes by helicopter or 1 hour by four-wheel drive vehicle. The National Park Service maintains significant enforcement and other staff nearby at Glen Canyon National Recreation Area and Grand Canyon National Park and can be called upon with short notice to assist with event logistics. Based on our experience with the proposed "condor release" event (which would have occurred in the same general area), I estimate that an appropriate event could be organized with roughly 48-72 hours lead time. Secretary Babbitt notes that this option would have the most confrontational or "in-your-face" character of the three.

The third option would be to hold the event in Jackson Hole. The logistics and scheduling would be much simpler than the Utah site option and, like the Oval Office option, would not present the same confrontational aspect associated with an event in Utah.

For my part, I believe that any of the three options will adequately serve the purposes underlying establishment of a new monument.

PURPOSE OF THE UTAH EVENT

The purpose of the new monument designation would, in general, be to provide additional protection for scenic public lands with high scientific and historical value. More specifically, monument designation would grant the Interior Department additional leverage to forestall a proposed coal mine in the area.

The political purpose of the Utah event is to show distinctly your willingness to use the office of the President to protect the environment. In contrast to the Yellowstone ceremony, this would not be a "feel-good" event. You would not merely be rebuffing someone else's bad idea, you would be placing your own stamp, sending your own message. It is our considered assessment that an action of this type and scale would help to overcome the negative views toward the Administration created by the timber rider. Designation of the new monument would create a compelling reason for persons who are now disaffected to come around and enthusiastically support the Administration.

Establishment of the new monument will be popular nationally in the same way and for the same reasons that other actions to protect parks and public lands are popular. The nationwide editorial attacks on the Utah delegation's efforts to strip wilderness protection from these and other lands is a revealing recent test of public interest in Utah's wild lands. In addition, the new monument will have particular appeal in those areas that contribute most visitation to the parks and public lands of southern Utah, namely, coastal California, Oregon, and Washington, southern Nevada, the Front Range communities of Colorado, the Taos-Albuquerque corridor, and the Phoenix-Tucson area. This assessment squares with the positive reactions by Sen. Reid, Gov. Romer, and Rep. Richardson when asked their views on the proposal.

Opposition to the designation will come from some of the same parties who have gen-

erally opposed the Administration's natural resource and environmental policies and who, in candor, are unlikely to support the Administration under any circumstances. It would draw fire from interests who would characterize it as anti-mining, and heavy-handed Federal interference in the West. Gov. Miller's concern that Nevada's sagebrush rebels would not approve of the new monument is almost certainly correct, and echoes the concerns of other friends, but can be offset by the positive response in other constituencies.

THE GRAND STAIRCASE-ESCALANTE NATIONAL MONUMENT

The Antiquities Act provides you with executive authority to set aside federal lands as national monuments in order to protect objects of scientific or historic interest. The authority has been used more than 100 times in the last ninety years, and served as the basis for creation of many of the Nation's most important protected areas. Many national parks in the West, including most in Utah, were originally set aside under the Antiquities Act. For example, Grand Canyon, Grand Teton, Arches, Capitol Reef, Cedar Breaks, Dinosaur, Natural Bridges, and Zion were originally protected by presidential orders issued under the Antiquities Act. Since World War II, every President except Presidents Nixon, Reagan, and Bush have established national monuments.

The attached memorandum from Secretary Babbitt recommends that approximately 1.7 million acres of federal land managed by the Bureau of Land Management in southern Utah be designated as the "Grand Staircase-Escalante National Monument."

The lands in question represent a unique combination of archaeological, paleontological, geologic, and biologic resources in a relatively unspoiled natural ecosystem. Three general areas lying to the west of the Colorado River and to the east of Bryce Canyon National Park would be covered by the new monument: the Grand Staircase, Kaiparowits Plateau, and the Escalante Canyon region.

The Grand Staircase spans six major life zones, from lower Sonoran desert to Arctic-Alpine forest, and its outstanding rock formations present some four billion years of geology. The area includes numerous relict plant areas—rare examples of pristine plant ecosystems that represent the natural vegetative cover that existed in the region before domestic livestock grazing.

The Kaiparowits Plateau includes world class paleontological sites, including the best and most continuous record of Late Cretaceous terrestrial life in the world. The area includes thousands of significant archaeological sites, including the remnants of at least three prehistoric Indian cultures. The Kaiparowits includes the most remote site in the lower 46 states.

The Escalante Canyon region includes some of the most scenic country in the West, significant archaeological resources, unique riparian ecosystems, and numerous historic sites and trails.

EFFECTS OF MONUMENT DESIGNATION

There is very little current human use of the area proposed for monument designation and, with the exception of the proposed coal mine discussed below, current and anticipated uses are generally compatible with protection of the area as a monument and would not be affected.

The proposed proclamation would apply to only federal lands. Private and state-owned parcels would be excluded from the monument.

The new monument would be subject to valid existing rights, but would preclude new mining claims in the area.

The proclamation would depart from prior practice and would not reserve federal water rights. This approach on water rights reflects the judgment that an assertion of water rights would invite unnecessary controversy. Some of the objects to be protected by the monument designation do not require water. There is very little water in the area, and what water there is probably has already been claimed under state law. As a part of the study described below, the Secretary will determine whether to seek water rights.

Finally, the proclamation would direct the Secretary of the Interior to prepare a management plan for the area within three years. Although the precise outcome of the three-year planning process cannot be forecast, the Secretary believes that current uses of the area, including grazing, hunting, fishing, off-road vehicle use and similar activities would generally not be affected at current levels or in current areas of use.

The principal substantive effect of the monument designation will be on a proposed coal mine on the Kaiparowits Plateau.

The Kaiparowits Plateau lies in the center of the area that would be covered by the monument designation. Two companies hold leases to mine federal coal there. One company is working with Interior to surrender its Kaiparowits leases in exchange for rights to coal elsewhere in Utah (a situation quite similar to the case of the New World Mine). The other lease holder, Andalex Resources, a Dutch-owned coal company with plans to ship coal to Asia, has rebuffed Interior's offers to pursue a trade.

Coal development on the Kaiparowits would damage the natural values of the entire area. Monument designations would not block the proposed coal mine, per se, but would help in a variety of ways (described at length in the Secretary's attached memo, to persuade Andalex to surrender its leases in exchange for coal elsewhere).

This step—reducing or eliminating the risk of coal mining on the Kaiparowits—would represent an immense victory in the eyes of environmental groups and, based on the editorial written on the subject during the Utah wilderness bill debate, would be widely hailed in the media.

Washington, DC, August 14, 1996.

Memorandum for the President.

From: Kathleen A. McGinty.

Re: Proposed Utah Monument Designation and Event.

#### INTRODUCTION AND BACKGROUND

This memo responds to your request yesterday for additional information on the proposed event at which you would announce designation of certain Bureau of Land Management (BLM) lands in Utah as a national monument.

In brief, the current proposal is that you should use your authority under the Antiquities Act of 1906 to establish the "Grand Staircase-Escalante National Monument," a new national monument covering approximately 1.7 million acres of federal land in Utah managed by the BLM of the Department of the Interior (DOI).

At your direction, the Secretary of the Interior, in cooperation with the Department of Justice, has prepared the analyses and documents that are required to support creation of the proposed new national monument. A draft version of those materials is attached for your information. Final

versions should be transmitted to the White House today and should be ready for execution within 24 hours.

#### OPTIONS FOR ANNOUNCEMENT

Three alternate events have been discussed to frame announcement of your action. Some advisors believe that the announcement should take place in a formal Oval Office-type setting, so as to emphasize the presidential character of the action. This course would allow the most scheduling flexibility.

Other advisors recommend that you make the announcement on or near the lands to be covered by the monument designation. The area is very scenic and would offer great, unique visuals, but the country is rough and remote with difficult logistics. The first attached sheet of photos shows views of or from potential event sites on lands covered by the new monument designation. The landscape is serene, but strikingly beautiful. Because of good air quality, views extend beyond 100 miles. Morning and afternoon light bring out the land's colors best. August weather is hot, probably windy, with a chance of afternoon and evening thunderstorms.

The closest town with an airport capable of handling jet aircraft is Page, Arizona, a small town located on the Arizona-Utah border next to Lake Powell and Glen Canyon Dam. Travel time from the Page airport to the most likely event locations would be roughly 15-minutes by helicopter or 1 hour by four-wheel drive vehicle. The National Park Service maintains significant enforcement and other staff nearby at Glen Canyon National Recreation Area and Grand Canyon National Park and can be called upon with short notice to assist with even logistics. Based on our experience with the proposed "condor release" event (which would have occurred in the same general area), I estimate that an appropriate event could be organized with roughly 48-72 hours lead time. The Secretary of the Interior, Bruce Babbitt, notes that this option would have the most confrontational of "in-your-face" character of the three.

The third option would be to hold the event in Jackson Hole. The logistics and scheduling would be much simpler than the Utah site option and, like the Oval Office option, would not present the same confrontational aspect associated with an event in Utah.

For my part, I believe that any of the three options will adequately serve the purposes underlying establishment of a new monument.

#### PURPOSE OF THE UTAH EVENT

The purpose of the new monument designation would, in general, be to provide additional protection for scenic public lands with high scientific and historical value. More specifically, monument designation would grant DOI additional leverage to forestall a proposed coal mine in the area.

The political purpose of the Utah event is to show distinctly your willingness to use the office of the President to protect the environment. In contrast to the Yellowstone ceremony, this would not be a "feel-good" event. You would not merely be rebuffing someone else's bad idea, you would be placing your own stamp, sending your own message. It is our considered assessment that an action of this type and scale would help to overcome the negative views toward the Administration created by the timber rider. Designation of the new monument would create a compelling reason for persons who are now disaffected to come around and enthusiastically support the Administration.

Establishment of the new monument will be popular nationally in the same way and for the same reasons that other actions to protect parks and public lands are popular. The nationwide editorial attacks on the Utah delegation's efforts to strip wilderness protection from these and other lands is a revealing recent test of public interest in Utah's wild lands. In addition, the new monument will have particular appeal in those areas that contribute most visitation to the parks and public lands of southern Utah, namely, coastal California, Oregon, and Washington, southern Nevada, the Front Range communities of Colorado, the Taos-Albuquerque corridor, and the Phoenix-Tucson area. This assessment square with the positive reactions by Senator Harry Reid (D-NV), Governor Roy Romer (D-CO), and Representative Bill Richardson (D-NM) when asked their views on the proposal.

Opposition to the designation will come from some of the same parties who have generally opposed the Administration's natural resource and environmental policies and who, in candor, are unlikely to support the Administration under any circumstances. It would draw fire from interests who would characterize it as anti-mining, and heavy-handed Federal interference in the West. Governor Bob Miller's (D-NV) concern that Nevada's sagebrush rebels would not approve of the new monument is almost certainly correct and echoes the concerns of other friends, but can be offset by the positive response in other constituencies.

#### THE GRAND STAIRCASE-ESCALANTE NATIONAL MONUMENT

The Antiquities Act provides you with executive authority to set aside federal lands as national monuments in order to protect objects of scientific or historic interest. The authority has been used more than 100 times in the last ninety years, and served as the basis for creation of many of the Nation's most important protected areas. Many national parks in the West, including most in Utah, were originally set aside under the Antiquities Act. For example, Grand Canyon, Grand Teton, Arches, Capitol Reef, Cedar Breaks, Dinosaur, Natural Bridges, and Zion were originally protected by presidential orders issued under the Antiquities Act. Since World War II, every President except Presidents Nixon, Reagan, and Bush have established national monuments.

The attached memorandum from Secretary Babbitt recommends that approximately 1.7 million acres of federal land managed by the BLM in southern Utah be designated as the "Grand Staircase-Escalante National Monument."

The lands in question represent a unique combination of archaeological, paleontological, geologic, and biologic resources in a relatively unspoiled natural ecosystem. Three general areas lying to the west of the Colorado River and to the east of Bryce Canyon National Park would be covered by the new monument: the Grand Staircase, Kaiparowits Plateau, and the Escalante Canyon region.

The Grand Staircase spans six major life zones, from lower Sonoran desert to Arctic-Alpine forest, and its outstanding rock formations present some four billion years of geology. The area includes numerous relict plant areas—rare examples of pristine plant ecosystems that represent the natural vegetative cover that existed in the region before domestic livestock grazing.

The Kaiparowits Plateau includes world class paleontological sites, including the best and most continuous record of Late Cretaceous terrestrial life in the world. The area

includes thousands of significant archaeological sites, including the remnants of at least three prehistoric Indian cultures. The Kaiparowits includes the most remote site in the lower 48 states.

The Escalante Canyon region includes some of the most scenic country in the West, significant archaeological resources, unique riparian ecosystems, and numerous historic sites and trails.

#### EFFECTS OF MONUMENT DESIGNATION

There is very little current human use of the area proposed for monument designation and, with the exception of the proposed coal mine discussed below, current and anticipated uses are generally compatible with protection of the area as a monument and would not be affected.

The proposed proclamation would apply to only federal lands. Private and state-owned parcels would be excluded from the monument.

The new monument would be subject to valid existing rights, but would preclude new mining claims in the area.

The proclamation would depart from prior practice and would not reserve federal water rights. This approach on water rights reflects the judgment that an assertion of water rights would invite unnecessary controversy. Some of the objects to be protected by the monument designation do not require water. There is very little water in the area, and what water there is probably has already been claimed under state law. As a part of the study described below, the Secretary will determine whether to seek water rights.

Finally, the proclamation would direct the Secretary of the Interior to prepare a management plan for the area within three years. Although the precise outcome of the three-year planning process cannot be forecast, the Secretary believes that current uses of the area, including grazing, hunting, fishing, off-road vehicle use and similar activities would generally not be affected at current levels or in current areas of use.

The principal substantive effect of the monument designation will be on a proposed coal mine on the Kaiparowits Plateau.

The Kaiparowits Plateau lies in the center of the area that would be covered by the monument designation. Two companies hold leases to mine federal coal there. One company is working with DOI to surrender its Kaiparowits leases in exchange for rights to coal elsewhere in Utah (a situation quite similar to the case of the New World Mine). The other lease holder, Andalex Resources, a Dutch-owned coal company with plans to ship coal to Asia, has rebuffed DOO's offers to pursue a trade.

Coal development on the Kaiparowits would damage the natural values of the entire area. Monument designations would not block the proposed coal mine, per se, but would help in a variety of ways (described at length in the Secretary's attached memo) to persuade Andalex to surrender its leases in exchange for coal elsewhere.

This step—reducing or eliminating the risk of coal mining on the Kaiparowits—would represent an immense victory in the eyes of environmental groups and, based on the editorials written on the subject during the Utah wilderness bill deb, would be widely hailed in the media.

Record Type: Federal (All-in-Mail).

Creator: Kathleen A. McGinty (McGinty—KA1) (CEQ).

Creation date/time: 23-Aug-1996 16:29:34.89.

Subject: Utah—weekly report.

To: Peter G. Umhofer.

CC: Thomas C. Jensen

Text: As you know, a draft national monument declaration has been prepared for your review by the Department of Interior. Per your request, the Department studied the area and found it incredibly rich archaeologically (Anasazi ruins) and ecologically (unique and pristine natural resources); already in Federal ownership, and therefore, suitable for monument designation under the Antiquities Act. In addition, Interior also reports that currently, a foreign coal company called Andalex Resources is pushing to open a coal mine in the heart of the area. While a monument designation is not capable of stopping the mine (all existing property rights and uses would be held harmless), it would make it more difficult for the mining company to secure approval of their request for a 22 mile road that they would propose to run across federal land, again in the heart of this area. In this regard, the situation is very similar to where we were last year on Yellowstone—mine proposed; mine requesting use of federal land. Under these circumstances last year, your exercised authority to withdraw surrounding land from mining activity. Like the monument designation here, that action did not stop the Yellowstone mine, but it did erect significant barriers to it.

It was originally proposed that you would announce the monument during your vacation. Work was pushed to meet that deadline. I am very concerned now that, since we did not move forward at that time, but significant work was done, news of this will leak out. I strongly recommend that we move forward with this initiative. Others are concerned that it will ignite a "War on the West" backlash, and indeed, the Utah delegation—including Bill Orton—will be displeased to say the least. However, the attached editorial from the Salt Lake Tribune decries Dole's "Whine on the West", and in many other places in the west (CO, CA, WA, OR, NM) this would be extremely well received.

In any event, we need to decide this soon, or I fear, press leaks will decide it for us.

EXECUTIVE OFFICE OF THE PRESIDENT,  
Washington, DC, August 23, 1996.

Memorandum for the President.

From: Kathleen A. McGinty.

CC: Leon Panetta.

Re: CEQ Weekly Report.

#### UTAH

As you know, a draft national monument declaration has been prepared for your review by the Department of the Interior (DOI). Per your request, DOI studied the area and found it incredibly rich archaeologically (Anasazi ruins) and ecologically (unique and pristine natural resources). Because the area is already in Federal ownership, it is therefore suitable for monument designation under the Antiquities Act.

DOI also reports that a foreign coal company called Andalex Resources currently is pushing to open a coal mine in the heart of the area. While a monument designation is not capable of stopping the mine (all existing property rights and uses would be held harmless), it would make it more difficult for the mining company to secure approval of their request for a 20 mile road that they

would propose to run across federal land, again in the heart of this area. In this regard, the situation is very similar to where we were last year on Yellowstone—a proposed mine requesting use of federal land. Under these circumstances last year, you exercised authority to withdraw surrounding land from mining activity. That action did not stop the Yellowstone mine, but it did erect significant barriers to it as would the monument designation here.

It was originally proposed that you would announce the monument during your vacation. Work was pushed to meet that deadline. I am very concerned now that, since we did not move forward at that time, but significant work was done, news of this will leak out. I strongly recommend that we move forward with this initiative. Others are concerned that it will ignite a "War on the West" backlash, and indeed, the Utah delegation—including Congressman Bill Orton (D-UT)—will be displeased to say the least. However, the attached editorial from the Salt Lake Tribune decries Dole's "Whine on the West", and I believe that in many other places in the west (CO, CA, WA, OR, NM) this initiative would be extremely well received.

In any event, we need to decide this soon, or I fear, press leaks will decide it for us.

EXECUTIVE OFFICE OF THE PRESIDENT,  
September 6, 1996.

To: Elisabeth Blaug, Thomas C. Jensen,  
Brian J. Johnson,  
From: Kathleen A. McGinty, Council on Environmental Quality.

Subject: Wkly report graphs.

#### UTAH

We learned late today that the Washington Post is going to run a story this weekend reporting that the administration is considering a national monument designation. I understand that there are no quotes in the story, so it is based only on "the word about town." I have called several members of Congress to give them notice of this story and am working with political affairs to determine if there are Democratic candidates we should alert. We are neither confirming nor denying the story; just making sure that Democrats are not surprised.

Meanwhile, we are working with Don Baer and others to scope out sites and dates that might work for an announcement on this issue.

COUNCIL ON ENVIRONMENTAL QUALITY,  
Washington, DC, September 6, 1996.

Memorandum for the President.

From: Kathleen A. McGinty.

CC: Leon Panetta.

Re: CEQ Weekly Report.

#### UTAH

We learned late today that the Washington Post is going to run a story this weekend reporting that the Administration is considering a national monument designation. I have called several members of Congress to give them notice of this story and am working with Office of Political Affairs to determine if there are Democratic candidates we should alert. We are neither confirming nor denying the story; just making sure that Democrats are not surprised. This could lead the Utah delegation to try efforts such as a rider on the Interior Appropriations bill next week to prevent you from taking any such action.

Meanwhile, we are working with Don Baer and others to scope out sites and dates that might work for an announcement on this issue.

Creator: Brian J. Johnson (Johnson, BJ) (CEQ).  
 Creation: Date/Time: 10-Sep-1996 17:07:20.19.  
 Subject: Get a load of this from Kenworthy  
 To: Thomas C. Jensen, Kathleen A. McGinty, Wesley P. Warren, Shelley N. Fidler.  
 Text:

## ATTACHMENT 1

Att Creation Time/Date: 10-Sep-1996 14:36:00.00  
 Att Bodypart Type: E.  
 Att Creator: Kenworthy, Tom.  
 Att Subject: utah, again.  
 Att To: smtp: johnson.

Brian: So when pressed by Mark Udall and Maggie Fox on the Utah monument at yesterday's private ceremony for Mo, Clinton said: "You don't know when to take yes for an answer." Sounds to me like it's going forward. I also hear Romer is pushing the president to announce it when he's in Colorado on Wednesday. Give me a heads up if its imminent—I can't write another story saying it's likely to happen, but it would be nice to know when it's going to happen for planning purposes—Tom Kenworthy.

ps—thanks for the packet.

## ATTACHMENT 2

Att Creation Time/Date: 10-Sep-1996 17:01:00.00  
 Att Bodypart type: D  
 Text:  
 RFC-822-headers:

Record Type: Federal (All-in-1 Mail).  
 Creator: Shelley N. Fidler (Fidler—S) (CEQ).  
 Creation Date/Time: 10-Sep-1996 17:09:13.8.  
 Subject: Re: Get a load of this from Kenworthy.  
 To: Brian J. Johnson, Thomas C. Jensen, Kathleen A. McGinty, Wesley P. Warren.  
 Text: why didn't he write about MO that would have been useful and nice and well deserved. what a creep.

Creator: Thomas C. Jensen (JENSEN—T) (CEQ).  
 Creation date/time: 10-SEP-1996 17:09:24.95.  
 Subject: re: Get a load of this from Kenworthy.  
 To: Brian J. Johnson; Kathleen A. McGinty; Wesley P. Warren; Shelley N. Fidler.  
 Text: Wow. He's got good sources and a lot of nerve.

Record type: Federal (External mail).  
 Creator: kenworthy.  
 Creation date/time: 11-SEP-1996 22:22:00.00.  
 Subject: utah.  
 To: johnson.

Text: south rim of the grand canyon, sept 18—be there or be square

## ATTACHMENT 1

ATT Creation time/date: 11-SEP-1996 22:22:00.00  
 ATT Bodypart type: D

COUNCIL ON ENVIRONMENTAL QUALITY,  
 Washington, DC, September 16, 1996.  
 Memorandum to the President.  
 From: Kathleen A. McGinty.  
 Subject: Utah Monument Proclamation.

The Secretary of the Interior prepared the attached materials in response to your request to him for information on federal lands in southern Utah that should be granted national monument protection under the Antiquities Act.

In brief, the Secretary proposes that you use your authority under the Antiquities Act to establish by proclamation the "Grand Staircase-Escalante National Monument." The monument would cover approximately 1.7 million acres of federal land in south central Utah managed by the Interior Department's Bureau of Land Management (BLM).

National and Utah environmental groups have pressed Congress to designate approximately 5.7 million acres of BLM land in Utah as "wilderness areas," a potentially more restrictive land use category than "national monument" status. The proposed Grand Staircase-Escalante National Monument would be welcomed by the environmental groups as a tremendous step toward protecting the areas they care most about, including the areas facing the greatest development threat from proposed coal mining. They will, however, continue to press their case for the much more stringent and larger wilderness designations.

The proposed national monument includes approximately 400,000 acres of BLM lands that environmental advocates want to see protected, but that have not been proposed for formal wilderness protection because the acres contain features that render them legally ineligible for wilderness status. The lands are essentially the interstices between large blocks of wilderness-eligible lands. They contain resources that qualify monument status, as described in the Secretary's memo to you.

Since news of the proposed monument leaked to the Los Angeles Times and Washington Post last week, we have received strong endorsements for this proposal from many quarters, including national and western newspapers, Democratic Senate and House candidates in Montana, Idaho, and Colorado, western Democratic Senators and House Members, key authorizing and appropriating committee members, western governors, and numerous environmental and conservation groups. The Utah delegation, including Democratic Congressman Bill Orton, Governor Leavitt, and the NRA have spoken out in strong opposition.

In this regard, much of the opposition from Utah has been premised on concern over the monument's possible impact on school revenues. We have compiled a considerable body of information on this issue. Based on CEQ, OMB, and Interior Department analysis of reports prepared by various State of Utah agencies, it appears that the proposed Andalex/Smoky Hollow Mine would generate less than \$75,000 per year for Utah school expenses. Utah's annual education budget is approximately \$1.6 billion. The criticism based on "lost" school income appears to be wildly overstated.

Secretary Babbitt anticipated the level and type of opposition we have now heard directly. The Secretary has proposed that, in establishing the monument, you take several steps to reduce short- and long-term opposition from Utah's pro-development interests and rural residents. First, he proposes that BLM, rather than the National Park Service, manage the monument. Second, he proposes that you expressly disclaim any reservation of federal water rights for the monument. Third, the Secretary has proposed monument boundaries that exclude all developed areas and state park lands. Fourth, the Secretary has proposed that the new management regime for the monument area be defined through a multi-year public hearing and involvement process.

White House and Interior Department representatives have met or conversed exten-

sively over the past week with members of the Utah delegation and the Governor's office. Based on those communications, we recommend that the monument proclamation disclaim any effect on management of grazing, hunting, or fishing activities. In other words, those activities would be governed by current law, notwithstanding the monument designation.

In addition, we recommend that you direct the Secretary to pursue negotiations with the State of Utah to trade state-owned parcels within the boundaries of the monument for federal lands of equal value elsewhere in Utah, thus ensuring that the state interests are protected. This direction would come in the form of a separate memo to the Secretary, not in the proclamation.

The draft proclamation submitted by the Secretary has been amended to reflect the hunting/fishing/grazing point described in the preceding paragraph.

Record type: Federal (External Mail).

Creator: kenworthy.  
 Creation: Date/time: 16-Sep-1996 12:30:00.00.  
 Subject: utah.  
 To: johnson.

Text: Nice touch doing the Escalante Canyons announcement on the birthday of Utah's junior senator! Give me a call if you get a chance.

## ATTACHMENT 1

Att Creation time/date: 16-Sep-1996 12:32:00.00  
 Att Bodypart type: D

THE SECRETARY OF THE INTERIOR,  
 Washington, September 13, 1996.

Hon. ROBERT F. BENNETT,  
 U.S. Senate,  
 Washington, DC.

DEAR SENATOR BENNETT: I am responding to your letter I received yesterday regarding the proposal to create a new national monument in southern Utah. While no final decision on establishing a monument has been made, your letter nonetheless raises valid concerns, and I do believe they merit full discussion.

You ask, first, whether the proposed monument would carry with it a reserved water right, and if so, what effect it might have on water users, the Colorado River Compact, and various proposed water development projects. These are questions of very legitimate concern, and I look forward to discussing them further with you, Congressman Orton, Governor Leavitt, and other interested parties.

Your second group of questions involves the effect of establishment of a national monument on state lands within its boundaries. We certainly share your concern that the state public school system not be impaired by establishment of a national monument. As you know, the issue of how to deal with state inholdings scattered across federal lands managed to protect nationally significant values is a common problem throughout the west. Many national parks, national forests, national monuments, and other projected federal areas contain state inholdings. The most common way to address these is for the state and the federal government to agree upon an exchange, whereby the state agrees to trade its inholding in return for public lands of equal value outside the protected area. I look forward to discussing this further with you.

Your final set of questions involves the status of existing mineral leases and rights in the area under consideration as a national

monument. The only mineral interests of any significance I am aware of in the area are existing federal coal leases issued many years ago. Most of these leases have expired of their own terms, or been relinquished, or are in the process of being cancelled pursuant to law. Two leases or lease groups remain. One is held by Pacificorp, and we are currently in very serious discussions with that company to relinquish its lease on the Kaiparowits Plateau in exchange for bidding credits on federal coal of equal value elsewhere.

The remaining lease interest is held by Andalex Resources, Inc. This company has applied for a number of permits or other authorizations required by federal and state law in order to open a mine on the Kaiparowits Plateau. A draft environmental impact statement is currently being prepared on the proposal. Should a national monument be established, and should the company continue to seek permission to move forward with its proposal, a determination would have to be made whether the Andalex proposal is inconsistent with the purposes of the monument, and if so, whether and to what extent the company has valid existing rights that would have to be addressed.

I appreciate the opportunity I've had to discuss these issues with you, with Congressman Orton, and with Governor Leavitt. I look forward to further discussions in the very near future.

Sincerely,

*Bruce Babbitt.*

#### LET'S GET SERIOUS ON THE WAR ON DRUGS AND ILLEGAL ALIENS

#### HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. TRAFICANT. Mr. Speaker, earlier this year I introduced legislation, H.R. 805, that authorizes the use of military personnel to assist the Immigration and Naturalization Service [INS] and the U.S. Customs Service in their border patrol functions. It passed in the House overwhelmingly as an amendment to the fiscal year 1998 Defense authorization bill was pulled during the deliberation of the conference report. Yesterday I introduced legislation that expands on that important piece of legislation.

According to the official estimates, between 5 and 7 tons of illegal drugs are smuggled across our borders every day. In addition, thousands of aliens are snubbing Federal immigration laws and crossing our borders illegally daily. Federal agencies are complaining of being outmatched in both manpower and firepower by the drug lords and their henchmen. Law enforcement personnel are increasingly becoming targets of the violence. Barry R. McCaffrey, chief of the White House Office of National Drug Control Policy, received a death threat from the Tijuana cartel during an August tour of the border. Michael T. Horn, the Drug Enforcement Administration's chief of international operations, identifies the Mexican drug cartels as the "greatest law-enforcement threat facing the United States today."

According to the United Nations, drug trafficking has become a \$400 billion-a-year busi-

ness worldwide. Illegal drugs are bigger business than all exports of automobiles and about equal to the worldwide trade in textiles. More than 13 million U.S. residents buy illicit drugs and use them at least once per month, spending each year between \$50 to \$100 billion. The addictive nature of these drugs, their high price and their illegality may play a role in as much as half the street crime in the United States. Drug related criminal activity is seen as one of the main reasons for the substantial growth of the U.S. prison population and over one million persons are arrested each year on drug related charges in the United States.

Without question, the border should be patrolled by the Border Patrol. But the reality is, the INS is having an extremely difficult time hiring the 1,000 Border Patrol agents a year mandated by Congress. Currently, we have about 6,600 Border Patrol agents. The White House recently stated that 20,000 Border Patrol agents are needed to properly patrol the border. We are not even close to meeting that figure.

My new legislation authorizes the Secretary of Defense to assign members of the Armed Forces, under certain circumstances and subject to certain conditions, to assist the INS and Customs in monitoring and patrolling our borders to stop the ever increasing flow of illegal aliens and illegal narcotics. It also establishes a training program for troops being deployed on our borders that would ensure that military personnel receive the proper training in border security procedures. It provides for specific information to be disseminated regarding issues affecting law enforcement in the areas of deployment. It directs a civilian law enforcement officer to accompany any deployment of troops to search, seize, and/or arrest any person who is suspected of criminal activity. And finally, it directs the Attorney General or the Secretary of the Treasury to notify the Governor and local officials of any State where military troops will be deployed and what type of tasks will be performed.

Our country is being invaded, and what better way to quell this invasion and protect our national security than utilizing the U.S. military. The military has the technology and manpower that we desperately need on our borders right now. Something must be done.

Mr. Speaker, the American people have spoken loud and clear. They do not want an open door policy when it comes to illegal aliens and drugs. Our national sovereignty is at stake. This is a good bill that makes sense. I urge my colleagues to join me in this fight and cosponsor this important piece of legislation.

HONORING F. DALE KUENZLI, EXECUTIVE DIRECTOR OF THE MICHIGAN BEAN COMMISSION

#### HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. CAMP. Mr. Speaker, I rise today to pay tribute to F. Dale Kuenzli, executive director of the Michigan Bean Commission since 1993,

who has announced his intention to retire in December. As the third executive to lead the commission since its 1965 inception, Dale has led the Michigan Bean Commission in a professional and enthusiastic manner during the past 4 years. He has worked tirelessly with local, State, Federal, and international officials to open markets to Michigan bean growers. He is known around the world as a brilliant spokesperson for Michigan farmers, with a talent for deciphering the complex language of agribusiness and financial markets. Not just a "beansmith," as he is often called, Dale is also a well-rounded agribusiness person with a keen political acumen and a dedication to our vision for the future of Michigan's farm families. Dale is also known for his loyalty to his family and to his other passion, the Michigan State Spartans. Dale is also to be honored for his contributions to the apple industry, given his avid consumption of what is estimated to be a pound and half of apples every day. On the occasion of his retirement, we bestow upon F. Dale Kuenzli our highest esteem for his accomplishments, and wish him success in his future endeavors.

HONORING F. DALE KUENZLI, EXECUTIVE DIRECTOR OF THE MICHIGAN BEAN COMMISSION

#### HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. BARCIA. Mr. Speaker, I join with my colleague, Mr. CAMP, in paying tribute to a gentleman who is legendary as an ambassador of our State's agriculture industry. As a skilled trader, an articulate emissary, and a singular man of honor and integrity, he has been a blessing for our bean growers, as well as an individual that will be difficult to fully replace. It has been my good fortune to have worked with Dale on many projects of importance to the dry bean growers of my district and State. I want to offer my personal thanks for all that he has done, and my best wishes for all that the future holds for him. Thank you, Mr. Speaker.

#### THE SALE INCENTIVE COMPENSATION ACT

#### HON. HARRIS W. FAWELL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. FAWELL. Mr. Speaker, Leronda Lucky is an industrious yellow page advertising salesperson for BellSouth in Ohio. She wants to be paid on commission and work as many hours as possible. "My primary motivation," she says, "to work long and hard hours is so that I can earn as much money as possible to support my family, save money for my children's education, and save for retirement."

Unfortunately, Leronda must work as an hourly employee and is limited to working 9 to 5 each day, 40 hours per week and being paid overtime for hours over 40. "My base pay and

the prospect of overtime earnings do not motivate me," says Leronda. "My choice is to be paid on a commission basis. Also my clients do not necessarily have 9 to 5 work hours. I need the flexibility to determine when I need to meet with the customers on their hours."

Leronda Lucky's story is an example of how 1938-era workplace laws do not necessarily fit the workers or the workplace of the 1990's. Such antiquated laws end up hurting the very workers they were intended to help.

The 1938 Fair Labor Standards Act set the workweek at 40 hours and required that any additional hours worked be paid at one and a half times the base hourly wage. The law made workers hourly employees unless they met certain criteria to exempt them. Salesperson who work away from their employer's premise, in the law referred to as "outside salesmen," were exempt, allowing them to work as many hours as they wished, when they wished, and for a commission if they so choose. This exemption was granted on an idea that professional salespeople work irregular hours in response to their customers' needs and they generally work on commission as opposed to an hourly wage.

In 1938, these salespeople were outside, communicating with their customers by traveling from town to town and visiting customers in person. In 1997, with the advent of fax machines, computers, e-mail, the Internet, modems, and advanced telecommunications, the once outside sales force has moved inside. These inside salespeople can work at one location—at an office, or even at home. Communications, paying for goods, and other transactions can be done electronically. The once outside sales force is today a more efficient, effective and profitable inside sales force. Without the 1938 law, these inside salespeople could earn wages that greatly exceed the amounts that are otherwise available through hourly pay rates plus overtime.

The House Subcommittee on Workforce Protections recently held hearings on this outdated law. Several inside salespeople, including Leronda Lucky, testified on the need to reform the 1938 Fair Labor Standards Act to make it fit the workplace of the 1990's. And so yesterday, along with my colleague on the subcommittee, Congressman ROBERT E. ANDREWS, I introduced H.R. 2888, the Sales Incentive Compensation Act, to make this area of the law adapt to today's work force.

H.R. 2888, THE SALES INCENTIVE  
COMPENSATION ACT

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. ANDREWS. Mr. Speaker, many American workers today earn their living by selling goods and services to customers across the continent or across the globe. Such salespeople increasingly find that their paycheck is determined by how well they produce and how much they sell, because they are paid in part according to a bonus or commission system. Salespeople who can substantially increase their salary by earning more commissions

ought to be allowed to work longer hours and perform their jobs more effectively, in order to make more money. Unfortunately, current law keeps them from earning as much as they could.

I am proud to join with my colleague, Congressman HARRIS FAWELL, to introduce H.R. 2888, the Sales Incentive Compensation Act. This common-sense legislation will give fear greater flexibility to salespeople and their employees, by allowing salespeople to choose to work harder in order to earn higher commissions. And it ensures security and fairness for all workers, by precluding abuses that would force employees to work longer hours without substantial reward.

Our bill provides flexibility to meet the demands of the workplace and the market. Today's customers demand goods and services at different times and in different time zones. Today's information economy allows a more flexible sales force to make sales around the clock. The Sales Incentive Compensation Act gives employees the flexibility to adjust their schedule in order to earn more money in commission, rather than limiting their earning potential. For instance, a working mother may find it easier to make sales calls from home, while the employer benefits from a more productive sales force.

In addition, our bill guarantees security and protection for workers. The Sales Incentive Compensation Act ensures that lower earning workers cannot be exploited or denied the protections of time-and-a-half overtime for work beyond a 40-hour week. The bill establishes a stringent test which guarantees that salespeople cannot be exempted from the wage and hour laws unless they receive a substantial minimum salary and are guaranteed the opportunity to earn significant commissions or incentive-based compensation. Employees cannot be exempted from the 40-hour work week unless they meet this test.

The Sales Incentive Compensation Act is based on the principles of fairness and opportunity. Under our bill, salespeople must be given the opportunity to continue earning commissions if they choose to work longer hours and are successful in making more sales. The rate of bonus pay for extra sales must be as good, or better, than the rate for the salesperson's minimum sales. Employees would have an incentive to work harder, and employers would be required to pay them a fair commission for each additional sales that they make. Thus, both businesses and salespeople will share in the increased profit and productivity that will be created when H.R. 2888 becomes law. I urge my colleagues to support this sensible and crucial legislation.

NATO INFRASTRUCTURE FAIR  
SHARE ACT

HON. MAX SANDLIN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. SANDLIN. Mr. Speaker, I rise today to introduce legislation that will ensure our allies pay their fair share to the North Atlantic Treaty Organization Security Investment Program

[NSIP]. My legislation will reduce the amount the United States contributes to NSIP to \$140 million in each of the next 3 fiscal years. This bill will save taxpayers \$177 million

NSIP is a program designed to improve the transportation and infrastructure of NATO member nations. Under the fiscal year 1998 military construction appropriation bill signed by the President on September 30, 1997, the U.S. contributes \$153 million to NSIP. This amount was appropriately reduced from the fiscal year 1996, \$161 million and fiscal year 1997, \$172 million contributions. The United States still pays a disproportionate amount into this account, however, while receiving minimal benefit to our own infrastructure.

The NSIP supports projects and activities listed by NATO as capability packages, stand-alone projects, urgent requirements, and minor works. The projects are then placed in the following categories: authorized works, intra-theater, and trans-Atlantic force mobility; surveillance, reconnaissance, and intelligence systems; logistics support and re-supply; lines of communications control, training support, and exercise facilities; nuclear capabilities; and political-military consultation. These programs are important and I strongly advocate a prepared military. But why do we continue to spend money to expand logistic support and re-supply in Europe when we continue to downsize military depots in this country? Depots are necessary to provide the logistic support and re-supply efforts essential to defend our Nation from a military attack.

Why do we continue to spend money on transportation infrastructure to enhance force mobility in Europe while we continue to cut funding to our own Nation's transportation infrastructure? The Interstate Highway System was conceived so the U.S. military would be able to move forces and equipment from coast to coast. Highway capital investment per 1,000 vehicle mile of travel in the United States decreased by 17 percent from 1985-95, while travel increased by 37 percent. The United States needs an additional \$15 billion annually to maintain current conditions on our roads and bridges and another \$33 billion annually to improve conditions and performance. We must find alternate sources of income to improve our roads in this country.

I am an advocate of a strong national defense and have fought to increase money in the Defense budget and to fund the weapons programs essential to our military readiness. However, at a time when we are closing military bases and putting American soldiers out of work, it is wrong for American taxpayers to continue paying billions of dollars annually to benefit wealthy nations such as England, Germany, and France while these same countries use their capital to compete with us in international markets. Our country has for too long assumed the lion's share of the cost of defending our allies. These countries do not have war-torn, war-tattered economies. These countries are tough, shrewd international competitors. They have strong economies that give them the capability to pay for their own defense.

I believe NATO is one of the organizations that precipitated our victory in the cold war. As we prepare to expand NATO to include the emerging democracies of Poland, the Czech

Republic, and Hungary, we must realize that expanding NATO will not be easy and will in fact be a rather expensive operation. I advocate expanding NATO and do not believe we should make these countries, which are feeling the growing pains of the change from a Communist economic system to a capitalist system, pay any more than they can afford. However, we must ask our wealthy European allies to pay an appropriate portion of the cost of expanding the infrastructure that is needed to defend these nations.

When I first came to Congress, I pledged to work to enact legislation ensuring Texas receives an equitable share of transportation funds. This goal has yet to be achieved. However, while we continue to work toward that goal domestically, we can also work to see that U.S. taxpayers receive some benefit from every dollar they spend that is earmarked for infrastructure. This bill aims to do just that by decreasing the amount of money the United States contributes to the NSIP. For every dollar that Texas contributes to the national highway trust fund, it receives approximately \$.77 cents in return. Massachusetts, on the other hand, receives \$2.13 for each dollar it invests. Connecticut has a nearly 187 percent return on its dollar. Clearly, Texans already contribute transportation funds to other States. Why should we be asked to contribute transportation funds to other countries as well? My constituents do not receive adequate funds to repair our own roads, but they are asked to pay for the roads of people abroad.

America's infrastructure needs are great. With the heavy increase in the volume of traffic due to the implementation of NAFTA, we in Texas are more aware of that fact than most. The increase in the number of trucks on our highways has left many of our roads with potholes that have rendered them almost impassable. However, while the potholes remain along highways in east Texas, the taxpayers see their hard earned income going not to improve the Federal highways they use, but to build roads and highways in Germany, France, and England.

We have seen a tremendous amount of support for burden sharing in recent years. This support was evident when the House agreed to the conference report this year on H.R. 1119, the National Defense Authorization Act. That bill authorizes appropriations for fiscal year 1998 and 1999 military activities of the Department of Defense and prescribes military personnel strengths for those fiscal years. The bill contains important provisions on burden sharing. Section 1221 instructs the President to step up efforts to increase burden sharing from nations with whom we have military relations by having them take one or more of the following actions: increase their annual budgetary outlays for national defense as a percentage of its gross domestic product by 10 percent or at least to a level commensurate to that of the United States by September 30, 1998; increase the amount of military assets they contribute to multinational military activities; increase the amount of annual budgetary outlays of foreign assistance; and in nations with U.S. military bases, increase their financial contributions to the payment of the U.S. military non-personnel costs.

The Defense authorization bill also includes a sense-of-Congress resolution dealing with

the costs of enlarging NATO. Section 1223 contains a section that states: "It is the sense of Congress that the analysis of the North Atlantic Alliance of the military requirements relating to NATO enlargement and of the financial costs to the Alliance of NATO enlargement will be one of the major factors in the consideration by the Senate of the ratification of instruments to approve the admission of new member nations to the Alliance and by Congress for the authorization and appropriation of the funding for the costs associated with such enlargement."

The burdensharing proposals that have been passed in recent years have proved to be an effective way of encouraging wealthy foreign countries to begin paying their fair share for their own defense. Legislation in 1989 called upon Japan to increase its share of the cost of stationing United States troops there. This amendment has led to billions of dollars in savings for the U.S. taxpayer since then, including over \$3.7 billion last year. Japan now contributes 78 percent of the non-personnel cost of stationing United States troops there.

It is essential that we continue to stress the importance of burdensharing principles. Annually, we spend about 4 percent of our gross national product on defense while France spends a mere 2.5 percent and Germany a paltry 1.5 percent. As we have seen with the Japanese, if we apply pressure to nations capable of sharing in the cost of their defense, we will save United States tax dollars without removing one United States troop from foreign soil. I believe this bill is an important first step in improving our Nation's infrastructure and making our wealthy allies share the burden of their defense.

#### VETERANS' DAY 1997

### HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. GILMAN. Mr. Speaker, on the 11th day of the 11th month of the year 1997 we take time to remember those men and women who risked and sacrificed their lives for our Nation. It is a day to remember not only those who have lost their lives in battle but, also those who served valiantly and survived. Our greatness as a Nation could not have been achieved without the strong will and sacrifice of our citizens.

Veterans Day has been an American tradition since 1919, when Woodrow Wilson proclaimed Armistice Day to commemorate the November 11, 1918, Armistice that ended the fighting between the Allies and the central powers. This was our first step onto the international scene. It was a day of observance and remembrance for the 58,000 Americans who had died in World War I.

When the name for the day of observance was changed from Armistice Day to Veterans Day in 1954, it was proclaimed a day for honoring the veterans from all of our wars. The day however, still remained the 11th day of the 11th month, a date which marked the end of bloodshed that left the hope of lasting

peace. While that peace did not last there is still hope that one day the world will learn to live together in harmony.

Until then it is important to remember those men who fought for freedom and dreamed that their efforts would bring peace to the world. Our service men and women have also been our models. They have set a standard for our Nation in the eyes of the world.

As Woodrow Wilson stated on September 4, 1917: "Let it be your pride, therefore, to show all men everywhere not only what good soldiers you are, but also what good men you are, keeping ourselves fit and straight in everything, and pure and clean through and through. Let us set for ourselves a standard so high that it will be a glory to live up to it, and then let us live up to it and add a new laurel to the crown of America."

If we do not remember, we might forget and then their efforts might have been in vain.

President Eisenhower once called for Americans everywhere to rededicate themselves to the cause of peace. It is not only the job of our soldiers but the responsibility of all of us as American citizens to do what we can.

Our Nation's veterans have secured our Nation not only from attack but have secured our principles of freedom, equality, and democracy. These are the principles by which we, as American citizens live by.

For these reasons, let us remember all that our veterans have done for our Nation and our people not only today, but every day.

#### SALUTE TO KAUFMAN COUNTY RED RIBBON CONTEST WINNERS

### HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. HALL of Texas. Mr. Speaker, I had the privilege of presenting awards on October 18 to the essay contest winners of the Kaufman County Red Ribbon Drug Abuse Awareness campaign. These students are Amber Whatley of Mabank High School, Krystal Nye of Terrell Intermediate School, and Kristin Hanie of Forney Middle School. All three wrote about the issue of teenage drinking, and they made some valid points.

Amber Whatley reflected on the death of Princess Diana of Wales and the reports that the driver of her car was intoxicated. She noted that every 27 minutes someone is killed in a drunk-driving related accident, a tragedy that leaves loved ones "marred with grief and angered that society continues to produce propaganda promoting the appeal of alcohol."

Krystal Nye discussed the adverse effects of alcohol and the pressures that sometime cause teenagers to begin drinking. She noted that parents should be role models for their children and that the media "should not make drinking look like it is something that is healthy for you."

Kristin Hanie also wrote about the effects of alcohol and some of the reasons why teens might be tempted to try it. She mentioned several programs that help teens with alcohol problems, such as Ala-Teen and Al-Anon, and concluded, "I pray everyday that people will

learn alcohol is not the solution, and that someday this problem will be stopped."

I enjoyed visiting with these students at the awards ceremony, and I commend their efforts to enhance teenage awareness of alcohol abuse. This Red Ribbon Campaign is an annual effort sponsored by the Texas Agricultural Extension Service in cooperation with the Texas A&M University System. Red Ribbon Week is recognized by the National Red Ribbon Campaign, which was celebrated October 18-25. I am always honored when Rita Winton invites me to participate in this important occasion.

Mr. Speaker, as we adjourn today, I ask my colleagues to join me in saluting these outstanding students of Kaufman County and all those young people throughout our Nation who recognize the dangers of teenage drinking and who are doing their best to help their fellow classmates and friends combat this problem. As Miss Whatley concluded, "If action is taken by teenagers, America can look forward to society's success in developing alcohol-free individuals and a more productive future."

SECTION 110 OF 1996 IMMIGRATION REFORM NEEDS THOUGHTFUL GO-SLOW APPROACH TO PREVENT CHAOS

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 8, 1997

Mr. LaFALCE. Mr. Speaker, on September 16, 1997, I introduced legislation to amend section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 by exempting Canadian nationals who are not otherwise required by law to possess a visa, passport, or border-crossing identification card. This bill, H.R. 2481, now has 41 cosponsors who recognize the urgency of correcting the flaws in section 110.

Section 110 of the 1996 Reform Act mandates that an automated entry-exit system be established that would allow INS officers to match the entrance date with exit dates of legally admitted aliens. Congress included this section at the last minute during the House-Senate conference of the bill with the intent of solving the problem of overstaying visa holders—aliens who enter the United States legally but overstay their allotted time. Because the U.S. does not have a departure management system to track who leaves the United States, a new entry-exit system was thought to be the vehicle to solve the problem.

In the rush to complete the bill before the end of the fiscal year on September 30, conferees did not have time to give this provision the scrutiny it deserves. As a result, Congress missed the realities of our northern border with Canada. Historically, Canadian citizens have not been required to show documentation, other than proof of citizenship, when entering the United States. The same courtesy is granted to United States citizens entering Canada.

Any attempt to install a documentation system at the northern border will bring intolerable chaos and congestion to a system al-

ready strained. Last year, more than 116 million people entered the United States by land from Canada. Of these, more than 76 million were Canadian nationals or United States permanent residents. More than \$1 billion in goods and services trade crossed our border daily adding to the enormous traffic flow. To implement section 110 as it now stands would not only impede the flow of people and goods, it would counter the purpose of the United States-Canada Accord on Our Shared Border to ease and facilitate the increased crossings of people and goods between the United States and Canada.

As I have said before, I have a particular interest in the problem of delays and congestion at our northern-border crossings. My district, which includes Buffalo and Niagara Falls, has more crossings than any other district along the border. In a relatively small area, we boast four highway bridges and two railroad bridges. I know from personal experience the problems that delays and congestion can cause at these crossings.

Moreover, it is important to recognize the sense of borderless community that those living on the United States and Canadian sides of the border experience on a daily basis. Friends, family, and business associates travel easily, indeed seamlessly, across the invisible border to shop, enjoy theater and restaurants, athletic events, and other recreational opportunities. Hampering this camaraderie of community because of the need to resolve border problems that are not an issue at the northern border would be folly.

When I introduced H.R. 2481, my intent was not only to correct a flaw, but to initiate debate on the issue, to get the ball rolling, if you will, toward resolving a critical problem. This objective has been achieved. The response and enthusiastic support for this effort tells me unmistakably that this is a serious problem that must be fixed.

Today, I am introducing a bill that addresses the issue more broadly. The Border Improvement and Immigration Act of 1977 not only seeks to correct the problem at the northern border created by section 110, but it also takes a comprehensive but go-slow approach to analyzing the problem and determining the best solutions.

First, the bill would allow an entry-exit system to be implemented only at airports. It specifically exempts from section 110: any alien entering at land borders; any alien lawfully admitted as a U.S. permanent resident, or greencard holder; any alien for whom documentation requirements have been waived under the Immigration and Nationality Act, primarily Canadians.

Second, the bill requires the Attorney General to submit a report to Congress in 2 years on the feasibility of developing and implementing an automated entry-exit control system as prescribed in section 110, including arrivals and departures at land borders. The study must assess the cost and feasibility of various means of operating such an entry-exit system, including various means for developing a system and the use of pilot projects if appropriate. The report also would include how departure data would be collected if the system were limited to airports and a person arriving at an airport departed via land border.

Of particular note is the inclusion of possible bilateral agreements with Canada and Mexico to share entry and exist systems as a means to achieve the objectives of section 110. The proposal, which I have raised with the Canadian Ambassador and the Commissioner of the INS, would allow the United States to use, for example, Canada's entry data as our exit data; while Canada would similarly use United States entry data as its exit data. I believe this is an important cooperative effort that could be studied and possibly pursued under the umbrella of the United States-Canada Shared Border Accord.

Third, the bill will increase the number of INS border inspectors in each of 3 fiscal years, 1998-2000, by not less than 300 full-time persons each year. Not less than one-half of these new INS inspectors shall be assigned to the northern border. Similarly, Customs inspectors shall also be increased at the land borders by not less than 150 full-time persons in each of 3 fiscal years, 1998-2000, and not less than one-half of the Customs inspectors in each year shall be assigned to the northern border.

Mr. Speaker, I believe my new bill more comprehensively addresses the problematic issues that currently are found in section 110. It is critical that section 110 as it currently stands be amended in order to avoid unnecessary chaos at both the northern and southern land borders. An automated entry-exist system is not one to be implemented without careful consideration of the many issues involved. The Border Improvement and Immigration Act of 1997 provides the basis for making a decision on whether to go forward with such a system.

STATEMENT COMMENDING HANOVER COUNTY PUBLIC SCHOOLS

HON. TOM BLILEY

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 8, 1997

Mr. BLILEY. Mr. Speaker, today I would like to recognize Hanover County public schools as the first school system ever to win the U.S. Senate's Award for Continuing Excellence, or ACE. The ACE is awarded to organizations demonstrating "sustained exemplary performance in quality and productivity improvement." Since its establishment 14 years ago, it has only been given out six times, and never before to a public school system. Originally designed to recognize quality in private business, ACE has expanded over the years to include public sector agencies and remains one of the Nation's most prestigious awards.

Hanover County public schools have repeatedly been recognized for the excellence of their programs, the commitment of their teachers and administrators, the support of their parents and the community, and the achievement of their students. They qualified for the continuing excellence award by winning the Medallion of Excellence Award in 1991 and have continued to maintain a high performance on standardized tests, a high percentage of advanced studies graduates, and an exceptionally low drop-out rate.

The U.S. Senate's Award for Continuing Excellence is a tribute to the dedicated efforts of the many individuals who have created in Hanover County one of the finest public school systems in Virginia, and in the Nation.

**STRONG ENCRYPTION NEEDED TO PROTECT NATIONAL SECURITY**

**HON. DAVID DREIER**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. DREIER. Mr. Speaker, computers not only make virtually every aspect of our lives easier, we depend on their efficient operation to help safeguard our national security, economy, and way of life. Yet all it takes is a determined criminal with a personal computer and an Internet connection to cause a great deal of harm. That's why it's crucial that America protects sensitive information in computers with the best technology available.

Ensuring the security of information stored in computers, and preventing criminals from breaking into critical systems requires encryption software, which uses mathematical formulas to scramble sensitive information so it can only be accessed by authorized users, who have the 'key' to decode the material. The more complex the formula, the tougher it is for an unauthorized user to decipher the scrambled material. While American companies generally hold an edge over their foreign competitors in the development of advanced encryption software, export controls allow them to export only relatively simple encryption products. Over 400 companies outside the United States produce encryption software, and most are not subject to the same restrictions as U.S. companies. These companies are increasing their share of the rapidly expanding world market for encryption software at the expense of U.S. firms, which are not allowed to compete.

The Clinton administration has proposed a radical change in encryption policy, one that would impose a mandatory key recovery system on encryption software used in the United States and exported abroad. Key recovery would require the maintenance of a centralized databank with all the Nation's encryption keys, and is primarily intended to help law-enforcement and increase national security. If police or other law-enforcement officials believe criminals have encrypted information that would help prevent a crime or catch a law-breaker, they would obtain a court order, then retrieve the key from the centralized database. They could then convert the encrypted information back into its original form. Not only does this proposal raise concerns about how to prevent criminals from breaking into the key database, and about the privacy of law-abiding users of electronic commerce and Internet communications, it probably won't work.

While the Clinton administration is working to require that U.S. companies only export advanced encryption software that uses a key recovery system, many other nations will impose no similar requirement on their firms. Because criminals will find it easy to import that software over the Internet, by electronic mail,

on compact discs, or in some other way, they will continue to use encryption programs that U.S. law enforcement agencies don't have keys to. The people most affected by the mandatory key recovery system will be lawful Internet users, not the criminals and terrorists it is intended to combat.

Furthermore, prohibiting the export of encryption programs that don't include a key recovery system will make it impossible for American companies to compete with foreign firms that are not similarly limited. American companies will stop competing in a key technology in which they now hold a lead. It will cost U.S. jobs, and prevent advances in a technology that is critical to defending the United States from terrorists, criminals, and even simple hackers. Instead, Congress should lift the controls on encryption software, encourage development of this promising technology, and focus resources on helping police develop better tools to catch criminals who use encryption in the commission of a crime.

**THE WORKING AMERICAN'S TAX RELIEF ACT**

**HON. MAX SANDLIN**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. SANDLIN. Mr. Speaker, I rise today to introduce legislation to improve take home pay and reduce taxes for every working American earning a paycheck. The bill, titled the Working American's Tax Relief Act, allows taxpayers to deduct from their taxable income that portion of their income withheld for payroll taxes.

The economic report of the Census Bureau this fall had good news for many Americans. The economy is growing, median income rose for the second straight year, unemployment is low, and welfare rolls are dropping.

However, the working families and small businesses of America are not reaping the rewards of our recent prosperity. Average wages for full-time male workers fell last year, and median income has not fully rebounded since the last recession, leaving the living standard of a typical family below 1989 levels. For the 60 percent of American households in the lower- and middle-income brackets, the situation is even more grim. Real income for these families has fallen for the past 7 years.

Mr. Speaker, this is why people seem to be working harder and longer and not getting ahead. This is why Americans working a 40-hour week struggle to make ends meet. There were many good provisions in the Taxpayer Relief Act of 1997, and I supported the bill. However, the Working Americans Tax Relief Act builds on our success and offers much needed tax relief to every American bringing home a paycheck.

Including both the employee and employer contribution, over 70 percent of Americans pay more in payroll taxes than in Federal income tax. Even worse, the burden of this tax falls most heavily on the over 90 percent of Americans who earn \$65,400 or less. Working, middle-class Americans earning up to \$65,400 a

year pay a combined 15.3 percent of their income to fund the Social Security and Medicare programs. For taxpayers earning more than that, every dollar earned over \$65,400 is earned payroll tax free. Small businesses pay this tax regardless of the profits they make in a year, and for many small businesses payroll taxes have become the greatest tax burden. Small business owners and employees need relief from the tax. I am not proposing to change the structure of payroll taxes in America, but I am proposing to make the burden of the tax easier to bear.

American taxpayers currently pay income taxes on the portion of their income withheld from their paychecks for payroll taxes. Compounding the injustice of this tax is the fact that many of these taxpayers will again pay taxes on this income when they receive it back in the form of Social Security benefits after retirement. To eliminate this double taxation and offer the average American worker over \$1,000 in tax savings, my bill grants all workers, including the self employed, a deduction from taxable income equal to the amount of that worker's payroll taxes.

I urge my colleagues on both sides of the aisle to join me in supporting legislation to end double taxation of income and offer real tax relief for middle-class Americans and small businesses.

**NATIONAL DRUG CONTROL STRATEGY**

**HON. ROB PORTMAN**

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. PORTMAN. Mr. Speaker, I rise today to express my serious concerns about the failure of the Department of Defense to provide sufficient support for the National Drug Control Strategy in its fiscal year 1999 request. I also would like to commend the Office of National Drug Control Policy for refusing to certify the DOD budget request.

After making tremendous progress in the war on drugs from 1979 through 1991, drug abuse among our young people has been rising significantly over the past 5 years. Drug abuse is not only threatening the health and lives of our young people, it is a predominant factor behind violent crime, welfare dependency, teenage pregnancy, rising health costs, lower economic productivity, the spread of AIDS, and many other problems. Now is not the time to be backing away from our responsibilities to attack this problem.

Many of us in Congress have been working hard over the past few years to reverse these disturbing trends. We have been working in cooperation with General McCaffrey to support and enhance the National Drug Control Strategy. We must continue to support the goals of the strategy on both the supply and demand sides.

We strongly support the effort to ensure that the Department of Defense amends its fiscal year 1999 budget request to include an additional \$141 million in drug control initiatives. These funds are absolutely essential to enhance efforts in the Andes, the Caribbean,

Mexico, and along our borders, where this battle has to be fought initially. With a strong effort in source countries and along our borders, we can help reduce the use of drugs in the United States, which is crippling our young people.

Currently, counterdrug spending represents only 0.3 percent of the total Department of Defense budget. Despite rising drug use, the Department's counterdrug effort has declined by 2 percent since fiscal year 1996.

I also believe that it is vitally important to have a coordinated effort with leadership from the Office of National Drug Control Policy. This is a good example of why we need a drug czar. If we all stand behind the same goals and work hard in every agency and in Congress to support and enhance the anti-drug efforts at home and abroad, we will reverse the disturbing escalation in illegal drug use in our communities.

I call on the Department of Defense to bring its budget request in line with the National Drug Control Strategy and to help support the comprehensive Federal effort we must have if we are going to reduce drug abuse.

THE NATIONAL HEALTH SERVICE  
CORPS SCHOLARSHIP PROGRAM  
INCENTIVE ACT OF 1997

**HON. NANCY L. JOHNSON**

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mrs. JOHNSON of Connecticut. Mr. Speaker, for many years our Government has supported health care training programs to increase the number of health care professionals to serve our Nation's people. One of the most successful health training programs we have created is the National Health Service Corps Scholarship Program. Enacted more than 20 years ago, the purpose of this program is not only to encourage the training of top quality health care professionals but also to improve access to health care for Americans living in medically underserved areas.

This program encourages the training of primary care providers, focuses on preventive care, and targets medical manpower shortage areas. The graduates of this program work in our migrant health centers and in both rural and inner city community health centers, such as the community health center in my hometown of New Britain.

Program recipients are given a scholarship award, covering the costs of tuition and fees, together with a monthly stipend covering living expenses. In response to this award, the National Health Service Corps scholars are obligated upon completion of their training to provide a year of full-time primary health care in a designated shortage area for each year of scholarship funding. These areas are located in some of our Nation's neediest communities which are desperate for primary care providers.

Unfortunately, Mr. Speaker, this successful program is now in jeopardy—not from lack of funds, but from the new IRS interpretation of section 117(c) of the Internal Revenue Code to treat these scholarship amounts as fully taxable income.

Many scholarship recipients have tuition and fees amounting to more than \$36,900; income tax withholding at the required 28 percent can eat up nearly all, if not all, of the stipend portion of the award. If the student has additional income—a part-time job for example—he or she could face an additional tax liability on that income, though their money available for daily living expenses has not changed.

I have been contacted by a concerned student regarding this IRS interpretation. Jenny, a student at Yale University, is studying to be a nurse practitioner. As a recipient of a National Health Service Corps Scholarship, her \$30,000 a year tuition is paid directly to the school; she receives \$3,500 toward school fees, equipment, books and supplies, and a small stipend for living expenses for which income taxes are withheld. She was recently notified by the Department of Health and Human Services that income taxes would be withheld on the scholarship money as well.

Jenny will now be taxed at the 28-percent rate because the entire scholarship amount will now be included in her income, even though she never sees the majority of this money that is sent directly to her school for tuition. Jenny is now worried about her living expenses, because the new additional withholding will almost eliminate the stipend that she relies on for her room and board. Since Jenny already has a lot of debt from her undergraduate student loans, this abrupt change in policy threatens her ability to afford to stay in school and makes it more difficult to fulfill her obligation to work as a nurse practitioner in an underserved area, where her wages would likely be lower.

In my view, the IRS position regarding its application of section 117(c) is simply wrong. First, this money is not disguised future compensation. In fact it is the opposite. It is recognition of the compensation forgone as a consequence of going to work in an inner city or underserved rural area where wages are often low because there are not the resources needed to support a health care professional's income. Second, there is little difference between the obligations required under the National Health Service Corps Scholarship Program and the obligations required by the debt forgiveness provisions we enacted this summer in the Tax Payer Relief Act of 1997. And there should not be a difference in the tax treatment of the school scholarship or loan amount in terms of taxable income.

Through the passage of the Tax Payer Relief Act, we in Congress affirmed our support for favorable tax treatment of medical student loans forgiven in exchange for future service in medically underserved areas. It seems inconsistent and arbitrary to tax a scholarship given in exchange for a future commitment of public service in a medically needy area, while exempting a student loan forgiven for a similar commitment from the tax.

We need to correct this aberration in tax policy now before this successful program is destroyed. We need to take immediate action to clarify the Tax Code so that those students who wish to undertake the obligations of the program are assured stable, predictable financing of their academic program in exchange for a commitment to serve our underserved communities. It is also important to en-

sure that communities continue to have access to low-cost, quality health care services and that community and rural health centers will continue to have health professionals available.

My bill will reverse the IRS position regarding the taxability of these scholarships. It will rectify tax policy inconsistency, and it will ensure that a well-run and successful program is not devastated by a bureaucrat operating in clear contradiction of the intention of this valuable, proven program. In addition, it will let people like Jenny continue with her studies and be assured that her scholarship and stipend are intact.

I ask my colleagues to join me in cosponsoring this legislation to save the National Health Service Corps Scholarship Program.

60TH ANNIVERSARY OF THE CALUMET  
CITY CHAMBER OF COMMERCE

**HON. JERRY WELLER**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. WELLER. Mr. Speaker, I rise today to honor the 60th anniversary of the Calumet City Chamber of Commerce, an organization who represents a community rich in heritage. The Chamber of Commerce is a strong and independent leader of the business firms of Calumet region, and thus addresses issues that affect its members and the community. The Chamber has lent greatly to the development of this fine community over the years and should be recognized for its spirit of leadership and vision.

Currently, the Calumet City Chamber of Commerce provides many services to its residents. From initiating the area's ambulance program to attracting new business to the area, the Chamber has shown a devotion to continuing to build and revitalize the region. Community strength, in part, stems from those who are willing to give back to their patrons, the very community they serve. We all share a vision of good schools, safe streets, and a healthy commerce. The Chamber should be commended to their dedication toward achieving this goal.

The 60th anniversary of the Calumet City Chamber of Commerce will be celebrated this evening, Saturday, November 8. At this time the Calumet City Chamber will install its new officers for 1998 who include: Frank Orsini, president, Mike Sawicki, vice president, Don Todd, treasurer, Kenneth M. Tease, executive manager.

Board of Directors: Tom Cornwell, Harry Jones, Jeanette Sackol, Elaine Lane, Bob Sanders, George Karl, Tom Sanders, Ray Mika, Jerry Eurlley, Chris Martin, and Mike Gauthier.

It is truly fitting that this Chamber celebrate 60 years of history and progress. I extend my best wishes to the Chamber's membership, its present and incoming leaders for many more prosperous years to come.

THE NATIONAL HISTORIC  
PRESERVATION ACT

**HON. MARK E. SOUDER**

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. SOUDER. Mr. Speaker, today, I am introducing the National Historic Preservation Act, which would establish a national historic light station preservation program. It has been introduced in the other body by the chairman of the Energy and Natural Resources Committee, Senator FRANK MURKOWSKI of Alaska.

As you may know, Mr. Speaker, lighthouses have served as lifesaving navigational aids since before the turn of the century. However, many of these lighthouses have outlived their use to the Coast Guard as navigational aids. Thus, the Coast Guard is left with surplus lighthouses, and declares them excessed. The question then becomes, who cares for these lighthouses once they leave the Coast Guard's hands? If the land on which a particular lighthouse in question was first granted by a Presidential Order to the U.S. Lighthouse Establishment, it is considered to be public domain, and has to be first offered through the Bureau of Land Management [BLM] to the Interior Department. If the Interior Department does not claim the land, then the lighthouse is placed in the General Service Administration's [GSA] excessing process. If the property is not considered public domain, then the lighthouse is placed directly into the GSA excessing process.

Through the GSA process, priority is first granted to Federal agencies. This means that the lighthouse could be used for such things as an office for the Internal Revenue Service. If no Federal agency claims it, the property is then surveyed to see if it is suitable to qualify under the McKinney Homeless Assistance Act, thereby allowing it to be transferred to those organizations that assist the homeless. Should neither of these categories claim the lighthouse, it is then offered to the State in which it is located, possibly to be used for recreation purposes. If the State does not claim it, then it is offered to the local government where the property is located. Finally, if the lighthouse is still available at the end of the GSA process, it is put up for public sale.

The real tragedy here, Mr. Speaker, is that many of these lighthouses have been protected and preserved over the years by nonprofit historical lighthouse societies, who have donated a great deal of time, money, and resources to lighthouse preservation. As you can see, in order to have the lighthouses conveyed to them, they must wait through the long process described above, and then must bid on them. This process basically requires these nonprofit organizations to compete financially with private groups that have greater access to funds, and that have, in many cases not made the same commitment to the lighthouse in the past. In addition, these private groups may have plans for the lighthouse that are inconsistent with the best interests of the community. Though these nonprofit groups can, in some specific cases, purchase the lighthouse directly from the BLM, they must pay half of its market value—a value that

those particular groups helped to increase over the years through their hard work. Thus, the message we are sending here is that if you're going to provide a public service by preserving historical sites, you're going to have to pay for them in the end.

I should point out that another method for conveyance is for Congress to enact separate pieces of legislation to transfer a lighthouse to a specific group. As we know, this process can be very time consuming and cumbersome considering that there are hundreds of lighthouses that will be excessed in the near future.

My legislation would introduce fairness into the conveyance process for historic lighthouses by amending the National Historic Preservation Act to transfer this process to the National Parks Service, which would be able to work in conjunction with the State Historic Preservation Officer, to establish a national historical light station program. This new program would give priority to those Government agencies that have entered into a partnership agreement with a nonprofit organization whose primary mission is historical preservation of lighthouses, and would convey them at no cost. If no such applications are offered, or approved of, then the lighthouse would be put up for public sale. Thus, this legislation would help to ensure that in those cases where a nonprofit group has been active in a particular lighthouse's preservation, and wishes to continue in its work, that that group would be given a fair shot at claiming lighthouses when the Coast Guard excesses them.

Mr. Speaker, we need to recognize the very important role lighthouses have played in this country's history. By encouraging Government agencies to join with nonprofit groups to help preserve lighthouses for the future, we will be providing a much fairer process to those who wish to continue their work in preserving these nationally historic structures.

HONORING MAYOR RAY BLEDSOE

**HON. RALPH M. HALL**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. HALL of Texas. Mr. Speaker, it is a privilege for me to rise today to pay tribute to Mayor Ray Bledsoe of Howe, TX, who last month received the national Hometown Leadership Award, given by the National Association of Small Cities. Only 300 officials in the country received this award, and I am so pleased that my good friend and outstanding civic leader, Ray Bledsoe, is one of those.

Ray is always at the center of community service in Howe. He has served Howe as mayor for the past 11 years. He has spearheaded economic development and was instrumental in obtaining a connector road from Highway 11 and U.S. Highway 75. He helped put together funds for a new community center and coordinated a joint effort between the city and school district to build two new baseball parks. He is the president of the Grayson County Fair, serves on a half-dozen boards, and works about 60 hours a week taking care of the city of Howe's business—all without pay.

Ray not only provides leadership and guidance for the citizens of Howe but also provides hands-on service. Last month, as reported by the Herald Democrat, he was at the Grayson County Fair unfolding chairs, moving extension cords, and setting up booths. Earlier he built a fence around a statue of Judge Jake Loy, then got on his hands and knees and landscaped around it. Ray is willing to help with any task—no matter how large or small—and he is respected and beloved by the citizens of Howe.

Mr. Speaker, in the small towns and cities of America, the mayor plays an indispensable role in the functioning of the community. Often, as in Howe, this is an unpaid position. Too often the mayor receives far more complaints than thanks. So as we adjourn today, Mr. Speaker, I would like to take this opportunity to recognize an outstanding civic leader of Howe and an outstanding American—Mayor Ray Bledsoe—and to thank him for a job well done.

PERSONAL EXPLANATION

**HON. MICHAEL P. FORBES**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. FORBES. Mr. Speaker, on Thursday, November 6, 1997, I appreciated being granted an excused absence for part of the day. Due to that absence, I missed several rollcall votes.

Had I not been absent for part of the day on November 6, I would have voted in the following manner:

"No" on rollcall No. 585—Motion to adjourn;  
"No" on rollcall No. 586—Motion to adjourn;  
"No" on rollcall No. 587—Ordering the previous question on H. Res 305;

"Yes" on rollcall No. 588—Motion to table the motion to reconsider the vote on the previous question;

"Yes" on rollcall No. 589—Agreeing to H. Res 305, waiving a requirement of clause 4(b) of rule XI with respect to consideration of certain resolutions reported from the Committee on Rules, and for other purposes;

"Yes" on rollcall No. 590—Motion to table the motion to reconsider H. Res 305;

"No" on rollcall No. 591—Motion to adjourn;  
"Yes" on rollcall No. 592—Agreeing to H. Res 188, urging the executive branch to take action regarding the acquisition by Iran of C-802 cruise missiles;

"Yes" on rollcall No. 593—Motion to table the motion to reconsider H. Res 188;

"No" on rollcall No. 594—Motion to adjourn;

"Yes" on rollcall No. 595—On passage of H.R. 967 to prohibit the use of United States funds to provide for the participation of certain Chinese officials in international conferences, programs, and activities and to provide that certain Chinese officials shall be ineligible to receive visas and excluded from admission to the United States;

"Yes" on rollcall No. 596—Motion to table the motion to reconsider;

"No" on rollcall No. 597—Motion to adjourn.

CONFERENCE REPORT ON H.R. 2264,  
DEPARTMENTS OF LABOR,  
HEALTH AND HUMAN SERVICES,  
AND EDUCATION, AND RELATED  
AGENCIES APPROPRIATIONS  
ACT, 1998

SPEECH OF

**HON. ESTEBAN EDWARD TORRES**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. TORRES. Mr. Speaker, I am pleased to support the fiscal year 2000 \$300 million advance funding level for the Corporation for Public Broadcasting contained in this bill. That is a \$50 million increase over the comparable appropriation for fiscal year 1999, an amount which only partially offsets the three consecutive years of rescission of public broadcasting funds. The American public has sent a clear message to Congress that it supports a public broadcasting system.

The House appropriations report concerning CPB funding specifically supports the commitment made by CPB in 1994 to formalize partnerships among the organizations of the National Minority Public Broadcasting Consortia, television stations, and other public broadcasting organizations to maximize resources to increase the amount of multicultural programming on public television. That 1994 agreement was over a year in the making, but unfortunately, it has never received any funding.

I trust that the \$50 million increase will make it possible to fund the Principles of Partnership Initiative, and would encourage CPB to see if they can find fiscal year 1998 and fiscal year 1999 funds to get this initiative of collaboration underway.

The Minority Consortia organizations—Pacific Islanders in Communications, National Black Programming Consortium, National Latino Communications Center, National Asian American Telecommunications Association, Native American Public Telecommunications—have provided public broadcasting's program schedule hundreds of hours of programming addressing the cultural, social, and economic issues of the country's racial and ethnic communities. Additionally, each consortium has been engaged in cultivating ongoing relationships with the independent minority producers community by providing program funding, programming support, and distribution assistance. They also provide numerous hours of programming to individual public television and radio stations.

I would like to point out that the newest consortia member, Pacific Islanders in Communications, is headquartered in Hawaii and has already had major responsibility for several award winning public broadcast productions, notably Storytellers of the Pacific which was coproduced with Native American Public Telecommunications, and And Then There Were None.

I look forward to an increasingly productive partnership between public broadcasting and the National Minority Public Broadcasting organizations and the communities they represent.

EXTENSIONS OF REMARKS

A PROGRESS REPORT ON THE  
LOAN CONSOLIDATION PROGRAM

**HON. ROBERT E. ANDREWS**

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. ANDREWS. Mr. Speaker, I rise to report on the progress of the Department of Education's loan consolidation program. Because of the solid efforts of the Department and EDS, the program is on track to complete all the pending consolidation applications and to resume accepting new applications by December 1, 1997.

As of September 15, 1997, EDS had received 142,856 consolidation applications. Of that number, 84,078 were still pending. In less than 2 months, the outstanding inventory has been reduced by 81 percent; only 15,607 applications are still pending. As a result, the number of completed consolidations has increased by 64 percent since mid-September.

These updated figures show that the loan consolidation problems no longer exist. The Department's loan consolidation program streamlines the borrowing process, reduces financial costs, and improves access to education for students and their families. The Department and EDS are to be commended for their swift response to the situation and for putting this important program back on track.

HELPING EMPOWER LOW-INCOME  
PARENTS [HELP] SCHOLARSHIPS  
AMENDMENTS OF 1997

SPEECH OF

**HON. MAX SANDLIN**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, November 4, 1997*

Mr. SANDLIN. Mr. Speaker, I rise today to oppose H.R. 2746, the HELP Scholarships Program. I am a strong advocate for public schools and I believe we must work to ensure that all children, regardless of race, religion, income, or social status, have an opportunity to receive the best education possible in our public schools. We should not jeopardize that opportunity with an ill-conceived plan to provide tax dollars to private schools.

If we are to improve public education in this country, we must take positive steps. I believe the principles outlined in the Democratic plan provide the foundation for those steps. We have focused on six goals: First, early childhood development—basics by age six; second, well-trained teachers; third, relief for crumbling and overcrowded schools, and well-equipped classrooms; fourth, support for local plans to renew neighborhood public schools; fifth, efficient and coordinated use of resources; and sixth, parental choices for public schools.

These goals seem to be simple common sense. They provide the basis for a quality, public education for all students. If we, as Members of Congress, unite behind these goals, we can make great strides in our quest to improve public education. In our great country, everyone is guaranteed the right to a free,

*November 9, 1997*

public education. It is our duty to ensure that a public education is consistently a quality education.

The increasing competitiveness of our global economy requires that our young people be better educated than ever before in our history. Our schools must provide adequate training in the basic skills needed to succeed in the current and future job market. We must ensure that all of our students have access to an education that prepares them to survive in a global economy. The Democratic plan places us firmly on that path.

Unfortunately, the bill we are considering today will help only a few children fortunate enough to meet the criteria to attend private schools. This bill provides no real choice to students or parents. It does nothing for the vast majority of the nation's students. Only a few lucky students could take advantage of the program given the low funding level for the title VI program under which the vouchers would be provided.

The Republican plan might provide more opportunity to a few select lower income students, but what about the rest? What about the students that private schools don't want? We cannot require private schools to admit all students. This bill affords no civil rights protections to the students in the voucher program. Schools accepting vouchers do not have to accept children who need high-cost education because they are disabled, have limited English proficiency, or are homeless. When we provide public funds to these schools, we resurrect the misguided concept of "separate but equal."

In addition to the problems presented by diverting public money into private schools, I believe it is important to point out that it is a clear violation of the first amendment doctrine of separation of church and state to provide public money to private, religious schools. This bill explicitly permits Federal funds to be used for sectarian activities. Such provisions are clearly contrary to the provision of the first amendment prohibiting the establishment of religion. The Supreme Court has consistently held that tax dollars cannot pay, directly or indirectly, for religious education or the religious mission of parochial schools. If we adopt this voucher program, it will certainly face a court challenge that it could not withstand.

Nowhere in the United States has there been a successful voucher plan. In fact, most states, including my own State of Texas, have rejected vouchers at every turn. The States understand that our public schools cannot and will not survive if we enact such a proposal. To the contrary, they will wither on the vine.

Mr. Speaker, I strongly support local control and I am not at this point willing to reject all voucher proposals out of hand. But many of our local governments have spoken and the result has been a resounding "no". Until a voucher plan is successful at the local level, we in Congress should not impose our will on individual school districts and force them to lose any of their much needed public funding.

Mr. Speaker, now is not the time for experimentation. Now is the time to fight for our public schools, to fight for a quality education for all children, to fight for state-of-the-art equipment in the classroom. I urge my colleagues to oppose this harmful legislation.

IN HONOR OF MARTIN LUTHER KING, JR.

**HON. BENJAMIN A. GILMAN**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. GILMAN. Mr. Speaker, by the time our Congress reconvenes in January, Americans will have commemorated the national holiday which honors one of our greatest patriots and moral leaders, the Rev. Dr. Martin Luther King, Jr.

A few months later, on April 4, 1998, will fall the 30th anniversary of that dark day in American history when Reverend King was taken from us prematurely, at far too young an age, in one of the most heartless, senseless, and destructive crimes ever. For as long as civilization exists on this planet, scholars will debate how much greater an impact Dr. King would have had on our society had he been allowed to live and to continue his contributions.

Although the life of Martin Luther King was tragically cut short, his message is eternal and will long outlive all of us here today. The simple truth that Dr. King worked so hard to make us all realize is that hatred actually harms the hater more than the hated. The evils of racial injustice, which were a blot on the record of our country for far too long, harmed our economy, the morals, and the advancement of white America just as much as it did Black America. The terrible legacy of Jim Crowism and continued racial discrimination which plagued us for well after a hundred years of the Emancipation proclamation harmed us all, for they not only prevented all Americans from enjoying the full benefits of our society, they also prevented us all from reaping the benefits of the contributions all Americans are capable of making.

In today's world, as we stand on the threshold of the 21st century, many of Martin Luther King's achievements are all around us. More Afro-Americans hold elective office in the United States today, at all levels of government, than even the most optimistic person could have predicted in 1968. Afro-Americans have entered every field of our national lives and have seared themselves into our national consciousness. How much sadder and less enlightened all of our lives would be had we not had the works of Nobel Literature Prize winner Toni Morrison, the television entertainment of Bill Cosby, the athletic prowess of Michael Jordan, Magic Johnson, and so many others, and the millions of other black men and women who contribute to our society but would not have been able to do so had it not been for the desegregation work of Dr. Martin Luther King.

By no means should the celebration of Martin Luther King Day be taken as a celebration that we have achieved all we can. In fact, the legacy of racial division and hatred continues to plague us today, in many ways, day after day. I have personally been appalled to hear radio entertainers, those so called "shock jocks", who seem to believe it is both funny and entertaining to perpetuate racial stereotypes and verbal bigotries that most of us though we outgrew as a people some 40

years ago. It seems as if all too often we hear of the desecration of a Black church, the beating of a Black young person, and other acts of racial hatred that Dr. King devoted his life to wipe out. No American can truly be satisfied until after all of the barriers of prejudice in our society are removed.

Let us be inspired by the words of Dr. King, who stated: "If you can't fly, run. If you can't walk, crawl. By all means, keep on moving."

Martin Luther King Day is an appropriate time for all Americans to pause and remember that we must continue to move, until the day when all of us are afforded full opportunity, and that none of us have to be concerned that race, color, creed, or ethnic heritage are a hindrance to any individual, or to our Nation as a whole.

Let us free ourselves from hatred, as Dr. King urged, so that we can share the dream he so eloquently shared in August of 1963—a dream that "some day the descendants of slaves and the descendants of slave holders can sit down and join hands together at the table of brotherhood and proclaim: Free at last, free at last. Thank God almighty, we're free at last."

CONGRATULATIONS DONALD DALLAS

**HON. JAMES A. BARCIA**

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. BARCIA. Mr. Speaker, those who earn recognition for community service are very special people. They have made efforts to give back to their communities to make them even better places, and have often thought of their neighbors ahead of their own interests. Next week the Knights of Columbus Holy Trinity Assembly 2013 will be honoring Donald Dallas for his civic activity with a humanitarian outlook.

Don Dallas has been a resident of Arbela township for 28 years. A graduate of Century College as a physical therapist, he also has training from the School of Aviation Medicine from Air University, U.S. Air Force. He also attended Blackstone School of Law, where he studied as a paralegal.

Currently a licensed private investigator and court officer, Don Dallas is a member of the Michigan Court Officers Association, the Michigan Council of Private Investigators, the U.S. Process Servers Association, and the Association of Trial Lawyers of America.

He is known throughout the community for his activity with the Tuscola County Planning Commission, the Red Cross Disaster Relief Volunteers, the County Democratic Club, and Habitat for Humanity.

Don's personal successes have been amply aided by his impressive family. His wife, Kathy, is a graduate of Central Michigan University and a registered nurse. Their daughter, Terri Dallas-Prunskis, is a medical doctor specializing in pain management and an associate professor at the University of Chicago Medical School. Their son, Ronald, is a graduate of Andrews University as a mechanical engineer.

Dan Dallas is one of the recipients of this year's awards for community service, in memory of Father William Cunningham, a priest who could only reach for tomorrow's challenge while completing today's accomplishment. Father Cunningham's family resides within my district, and he has served as an inspiration to literally thousands of men and women of all ages and backgrounds as the co-founder and executive director of Focus: HOPE in Detroit.

Mr. Speaker, I urge you and all of our colleagues to join me in congratulating Don Dallas on this impressive award, and in wishing him the very best for the future.

THE CONTINUING LEGACY OF THE LEWIS AND CLARK EXPEDITION

**HON. DOUG BEREUTER**

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. BEREUTER. Mr. Speaker, this Member would like to commend to his colleagues the following editorial from the November 4, 1997, *Omaha World-Herald*. The editorial highlights the growing interest in the Lewis and Clark Expedition and the upcoming bicentennial celebrations to commemorate the bold and courageous journey. As someone who has had a longstanding interest in the Lewis and Clark Expedition, this Member is pleased to promote the bicentennial efforts through the introduction earlier this year of two pieces of legislation. H.R. 1560 authorizes the U.S. Mint to produce a commemorative coin honoring the Expedition. Proceeds from the sale of the coins will be used to fund the activities of the National Lewis and Clark Bicentennial Council and the National Park Service.

This Member has also introduced House Resolution 144, a resolution to express support for the Bicentennial of the Lewis and Clark Expedition. This resolution highlights the importance of the expedition and expresses congressional support for the commemorative activities of the National Lewis and Clark Bicentennial Council as well as Federal, state and local entities and other interested groups.

We must continue to recognize the ongoing legacy of the Lewis and Clark Expedition. The upcoming bicentennial activities will provide excellent opportunities to stress the importance of the journey's mission and discoveries.

[From the World-Herald, Nov. 4, 1997]

LEARNING MORE ABOUT A MIDLANDS JOURNEY  
Lewis and Clark's great journey of discovery is beginning to draw attention as the bicentennial of the 1804 event draws closer.

A two-part documentary by Ken Burns is set to air tonight and Wednesday on Public Broadcasting System stations in the Midlands. Burns' effort follows a popular book by historian Stephen Ambrose, whose "Undaunted Courage" described the trip in detail. The book relied on historical records, letters and memoirs, as well as journals of the expedition written by Meriwether Lewis, William Clark and other members of the party. More than 800,000 copies have been sold.

The expedition was commissioned by President Thomas Jefferson to explore the newly purchased Louisiana Territory. Jefferson ordered Lewis to follow the Missouri

River as far as he could, then keep going beyond U.S. territory in an attempt to find a convenient water route to the Pacific.

There is no fast and easy route by water. But the explorations of Lewis and Clark succeeded in another way. They opened the continent to further settlement, identified scores of new plants and animals and launched tentative but cordial relationships with Indian tribes.

Current signs of interest include a 10 percent increase of visitors at Fort Clatsop near Astoria, Ore., where the explorers wintered. Membership in the Lewis and Clark Trail Heritage Foundation has risen. A flood of books on the subject is about to hit the stores.

Archeological digs are proceeding at Fort Clatsop, at Fort Mandan, another wintering site in North Dakota, and at the Great Falls of the Missouri. The first major archeological survey of sites on the trail began recently.

Lewis and Clark sites throughout the West and Midwest are gearing up for tourists at the bicentennial approaches. New Park Service interpretative centers in North Dakota and Montana will aid visitors.

In the Midlands, the Western Historic Trails Center in Council Bluffs, which presents information on the Lewis and Clark expedition and trails that went through the region, is ready for visitors. A new observation deck was constructed at Ponca State Park, overlooking part of the expedition's route. It is one of 10 markers being constructed in Nebraska to emphasize the highlights of the voyage. A Lewis and Clark national Historical Trail Interpretative Center is planned at Nebraska City.

Commemorations in Sioux City will revolve around the riverboat at the Sgt. Floyd Museum and Welcome Center. Floyd, a well-liked leader, was the only member of the party who didn't survive the trip.

The Lewis and Clark voyage of exploration was a major event in the life of the infant nation. The courage of the two leaders and their men was exceptional. The intellectual curiosity and scientific observational skills of Lewis were astounding. The party's combination of luck, pluck and ability has few equals. It's appropriate that the public is taking an interest in their story.

Though many Members of Congress seem to be having a difficult time making up their minds whether "fast-track" is in the national interest, the sensible Lincoln Journal Star newspaper in Lincoln, NE correctly acknowledges that the logic behind "fast-track" "[i]s a simple numbers game." This editorial properly recognizes that 96 percent of the world's consumers live outside of the United States, and we ignore them to our own detriment. Maybe a reading of the attached editorial will inject some fresh Midwestern air into the protectionist fog hanging over the District of Columbia and the Capitol. It's certainly worth a try.

[From the Lincoln Journal Star, Nov. 7, 1997]

PRESIDENT'S FAST-TRACK AUTHORITY IS  
NEEDED IN A GLOBAL ECONOMY

(Unsigned editorials are the opinion of the  
Lincoln Journal Star)

It's a bit surprising that a question exists on whether President Clinton should be granted fast-track authority in trade negotiations. Every president since Gerald Ford has had the power. In fact, fast-track authority had never lapsed until it expired on Sept. 30.

But Democrats are finding it difficult to support Clinton on the issue because of the

vigorous opposition of organized labor, which has paid for radio and television advertising, organized phone calls to congressional offices and threatened to withhold campaign funding.

In Congress, trade protectionists led by Rep. Richard Gephardt, D-Mo., have been joined by Republicans, who hate to see Clinton win anything, to create a cliffhanger. Analysts predict a close vote in the House. In the Senate, where there is more support for fast-track powers, opponents have succeeded in delaying action.

The concept of fast-track authority is easily described. It gives the president the authority to negotiate trade agreements, which Congress then can reject but cannot amend. Without such authority, any member of Congress might want to change this line or that of any trade agreement sent to it for approval. If that were the case, it's doubtful that any country would negotiate with the United States.

At this point in history, there is overwhelming evidence that free trade benefits the United States. It's a simple numbers game. The United States has 4 percent of the world's consumers. The rest live in countries where the economies often are expected to grow at rates that will exceed those in developed countries like the United States. Many Latin American countries, for example, are expected to have annual growth rates of as much as 5 or 10 percent. If the United States wants to maintain or increase its wealth, it needs to sell to those consumers.

International trade is already of major importance to the national economy. There has been a 35 percent increase in American exports since 1992. In 1996, U.S. exports of goods and services reached a record \$836 billion, employing 16.7 million workers.

The most persuasive argument against free trade is that it can mean that industries gravitate to nations that will permit them to degrade the environment, or use child and prison labor. Under the proposed fast-track legislation, however, Clinton has the authority to negotiate agreements that protect against those outcomes.

In the end, the issue of free trade reaches basic questions of economic freedom. The United States has led the world in open markets, free enterprise and competition. Everywhere, nations are adopting those values. Since the end of World War II, global tariffs have dropped from an average of 40 percent to 5 percent.

For the United States to continue to play an important leadership role in the global economy, Congress needs to restore fast-track authority to the president.

#### LEGISLATION TO PROMOTE FAIR FRANCHISING

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 8, 1997

Mr. LaFALCE. Mr. Speaker, I am today introducing legislation to address serious problems in the promotion and sale of franchise businesses and in the conduct of franchise business relationships. The legislation incorporates key proposals from bills I introduced in prior Congresses.

In the past two decades franchising has changed the way Americans do business and the way we purchase goods and services. In

large and small communities in my district and across the Nation the growing majority of businesses are either franchises or licensed outlets of national companies or retail chains. Franchising has been a significant factor driving both the expansion of our service economy and the growth of our small business sector.

Thousands of American families invest in franchises each year in the hope of realizing dreams of business ownership and economic independence. Unfortunately, too many of these dreams are shattered by franchise promoters who never fulfill promises to help build successful businesses. Rather than owning their own business, many franchisees find they have merely purchased below-minimum wage jobs that have neither the benefits or protections available to employees nor the legal rights and remedies of business ownership. For many franchisees, dreams of business ownership often turn into legal and financial nightmares.

These problems stem, in large part, from the fact that Federal and State law have failed to keep pace with the rapid development of franchising and offer franchisees little, if any, viable legal recourse against fraudulent and abusive conduct by franchisors. We have no Federal laws governing the sale or operation of franchise businesses and the only regulatory procedure at the Federal level, the Federal Trade Commission's franchise disclosure rule, is outdated and inadequately enforced. Only a handful of States have laws or regulations governing franchise sales and practices, and most of these now defer to the Federal Government for enforcement.

These problems are compounded by the fact that franchise contracts are written by franchisors to preempt every legal remedy available to franchisees. As a former chairman of the American Bar Association's Franchise Forum told the Small Business Committee several years ago, indemnification provisions in franchise contracts are drafted so broadly as to protect franchisors even for the franchisor's gross negligence, wanton recklessness and intentional misconduct.

Procedural devices also are routinely employed in franchise contracts to bar legal actions, to deny coverage of protections in State laws and to make litigation inconvenient and costly. Even basic principles of common law applicable to all other business relationships—concepts such as good faith, good cause, duty of competence and due care, and fiduciary responsibility—are routinely denied in franchise contracts.

In short, a huge and growing number of American business owners are routinely required to forego their basic rights and legal remedies just because they choose to become franchisees.

The bill I am introducing today, the Federal Fair Franchise Practices Act, addresses these problems and does so not by increasing Government regulation, but by enhancing private remedies that permit individual franchisees to protect their legitimate financial interests in a court of law.

My bill would promote greater fairness and equity in franchise relationships by establishing minimal standards of conduct for franchise practices, by prohibiting the most abusive acts by franchisors, by clarifying the legal

rights of franchise owners, and by nullifying procedural devices intended to block available legal remedies.

In addition, the bill incorporates basic prohibitions against fraud, misrepresentation and discrimination elsewhere in Federal law and applies them to franchise sales and business practices. It protects the right of franchisees to organize franchisee trade associations and to engage in collective legal action to protect their financial interests. And it provides a private right of actions for violations of Federal franchise disclosure requirements—something the FTC has requested for 18 years.

Mr. Speaker, franchising has undergone tremendous growth in the past two decades and now dominates our nation's retail and services sectors. But Federal law and regulation have failed to keep pace. Federal guidelines intended to protect the public from false or misleading franchise promotions are sadly out of date and only marginally enforced. Legal rights and standards taken for granted in other business relationships continue to be debated and denied in franchising arrangements.

It is time Congress acted to provide basic protections in Federal law to discourage fraudulent and abusive franchising practices and to help strengthen the American dream of small business ownership. I believe the proposals I am introducing could constitute landmark legislation. In much the same way that the Wagner Act helped revolutionize labor-management relations in the industrial economy of the 1930's this legislation can help restore fairness and balance in the growing franchising sector of the services-based economy of the 1990's.

I recommend this legislation to the consideration of my colleagues and I urge its adoption by the Congress.

TRIBUTE TO BILL AND DALE  
BELCHER

**HON. ELTON GALLEGLY**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. GALLEGLY. Mr. Speaker, I would like to recognize Bill and Dale Belcher on being chosen as Golden Condor Award winners for their many years of outstanding service to their community and Scouting.

Their work with the Scouts has spanned decades and has had a tremendous impact on the many young people they have worked with over the years. Their sense of community extends far beyond the boundaries of Scouting. For some, that would be enough public service, but not for Bill and Dale. Each of them has dedicated their life to a variety of service organizations. Both Bill and Dale have been very involved in their church and served as executives with United Way.

Dale is active with Soroptimist International, Oxnard Women's Club, and a host of other organizations. Bill is a 20-year veteran of the U.S. Navy, and a longtime member of the Rotary Club, just to name a few.

Mr. Speaker, Bill and Dale Belcher stand as shining examples of the difference two people can make in the lives of many. I would like to

extend my sincere congratulations to Dale and Bill on having been chosen as Golden Condor Award winners and thank them for their work in our community.

ROUGH DRAFT OF LEGISLATION  
TO IMPROVE QUALITY OF CARE  
IN NATION'S DIALYSIS CENTERS

**HON. FORTNEY PETE STARK**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. STARK. Mr. Speaker, I am today including in the CONGRESSIONAL RECORD the rough draft of a bill which represents several years of hard work within the kidney disease community on how to improve the quality of care for our Nation's nearly 250,000 kidney disease patients.

I am asking that the bill be printed in the RECORD in the closing hours of this session of the 105th Congress, so that interested parties can study the proposal over the next several months and offer suggestions and changes. I will be working on the bill over the coming months to develop a consensus on this effort to improve the quality of life of the Nation's kidney disease patients, and I hope to introduce it formally, with appropriate changes, when the second session meets in January.

Basically, the draft bill would create a continuous quality improvement [CQI] program that requires all providers treating end-stage renal disease patients under Medicare to provide data on the outcomes and quality of life of their patients, and to seek to improve that quality.

Those who achieve outstanding quality outcomes will be recognized for their special contributions. Those who fail to meet agreed-upon quality standards will be counseled and worked with to improve. Patients in most communities where there is more than one dialysis provider will be empowered to switch to centers which provide the better outcomes and quality. All the care givers, including the doctors, will be part of the new effort of measurement and improvement.

The result should be improved mortality and morbidity rates, improved energy levels, improved rates of return to work, and of transplantation.

Mr. Speaker, for over 23 years Medicare has been paying for the catastrophic expenses of treating end-stage renal disease, through three times a week life-giving dialysis, through transplantation, and through all the extra hospitalizations, tests, and pharmaceuticals needed by these citizens. The cost per patient per year is, counting everything, estimated between \$50,000 and \$60,000.

The program has been a tremendous success. It has saved enormous numbers of lives and in many cases provided a good quality of life for decades in which people have continued to contribute to their communities and loved ones.

Yet, after 23 years experience, we can and should do better. There are enormous differences between dialysis centers. After adjusting for every imaginable factor, scholars continue to find that some dialysis centers

have death rates much higher than the average. To be blunt, some dialysis centers should be avoided as dangerous to one's health. Some dialysis centers seldom or never refer patients—on whom they make some money—to transplantation so that they will never again need dialysis. Some centers' patients spend many more days per year in the hospital than the "best practice" centers. Some centers are able to get their patients back to work; in others, a lifetime of disability and welfare becomes the norm. And as the GAO reported to Congress on September 26, the number of appropriate lab tests given to ESRD patients vary enormously among centers, raising questions of quality and of fraud and abuse.

With Medicare—not total—expenditures on ESRD patients likely to be about \$9 billion in the coming year, we need to do better. We need to reduce the hospitalization rates and the unexplained death rates. We need to increase the opportunities for transplantation and for the return to work and a full range of normal activities. The draft bill would—I believe—help patients and providers work together to achieve these goals.

Finally, managed care has become a fact of life for most Americans, but most ESRD patients are not in managed care. Indeed, currently there is a prohibition on patients who reach ESRD status joining a managed care plan—although a person already in a managed care plan who reaches ESRD can stay in his or her plan. The fear has been that a managed care company could so cut access to services and quality care for these very vulnerable patients that it could lead to greatly increased patient death and illness. Until we have strong quality standards in place and know how to measure ESRD outcomes, it is dangerous to place these patients in systems designed to reduce utilization. The CQI legislation I am introducing will help ensure that for those few ESRD patients in managed care, there is a guarantee of quality. The lessons learned from this legislation will help permit the day when we could confidently entrust this population to disease management programs.

I want to thank all of the renal and patient associations who have been working with HCFA to improve quality and who have been offering suggestions for CQI legislation. In particular, I want to thank the Renal Physicians Association. This draft legislation builds on many of the ideas that are already underway in the renal community and at HCFA, and I believe it is a bill that can achieve consensus support throughout the renal community.

To repeat, I welcome additional suggestions and refinements to this proposal—and hope it is legislation that we can move forward in 1998.

TO HONOR AMERICA'S VETERANS

**HON. JAMES H. MALONEY**

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. MALONEY. Mr. Speaker, I rise today to honor our Nation's veterans.

When in 1958 President Eisenhower signed the bill proclaiming November 11th Veteran's

Day, he called for Americans everywhere to rededicate themselves to the cause of a lasting peace. He proclaimed that day an occasion for honoring all Veterans of all wars, a group that currently includes more than 27 million Americans, over 50,000 of whom reside in the 5th district of Connecticut which I represent.

The 11th day of the 11th month originally was known as Armistice Day, commemorating the signing of the Armistice ending World War I. The 1958 law changed one word, Armistice to Veterans' Day, and created a day for our Nation to honor all its veterans. Also on Veterans' Day in 1958, two unidentified soldiers, one killed in Korea and one killed in World War II were brought to Arlington Cemetery and interred at the Tomb of the Unknown Soldier.

Although the name of this day has changed, the central purpose has remained consistent, the 11th day of the 11th month remains a day to honor those who have served their country on the battlefields of Europe, Korea, South East Asia, in the Persian Gulf, and in many other locations around the world. But this is not only a day to remember those who did not return. This is also a day to reaffirm our commitment to the men and women who served and returned, and to the sons and daughters, wives and husbands of those who were left behind, whether for a while or forever.

We must commit ourselves to provide our veterans with full access to the best medical care available; we must ensure that the survivors of American veterans always have adequate provision for their needs; and we must commit ourselves to bringing home those soldiers who have not yet returned from the battlefield.

Mr. Speaker, we can never forget the sacrifices our veterans have made so that we may live in peace today. And this, Mr. Speaker, is what President Eisenhower was referring to when he called for Americans everywhere to rededicate themselves to the cause of peace on this, the 11th day of the 11th month. We need to rededicate ourselves to the peace which these brave Americans have fought to secure and defend.

Mr. Speaker, on behalf of the 5th congressional district, the State of Connecticut, and Americans everywhere, I thank the veterans for their service, dedication and loyalty to our country.

#### PRESERVING PATIENT ACCESS TO METERED DOSE INHALERS

**HON. CHRISTOPHER H. SMITH**

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. SMITH of New Jersey. Mr. Speaker, when most of us think about the Food and Drug Administration [FDA], we envision an agency that works diligently to expand the universe of safe and effective medications. So when I discovered that the FDA was actually proposing to reduce the number of proven medicines available to treat asthma and cystic fibrosis patients, I knew Congress had to act on behalf of patients. As a legislator representing

thousands of asthma patients, and as a father of two daughters with asthma, I am appalled that FDA might ban proven medicines patients need to survive.

As a result of these efforts by the FDA, today I am introducing legislation that will preserve access to metered dose inhalers [MDIs] for those patients suffering from respiratory conditions—particularly children suffering from asthma and cystic fibrosis. This bill will ensure that those who rely upon MDI's to breathe, will not be denied access to their lifeline by an overzealous FDA. Joining me in this effort is my good friend Florida Representative CLIFF STEARNS. Together, Mr. STEARNS—who is the author of H.R. 2221—and I have worked together in an effort to change the FDA's misguided policy.

On March 6, 1997, the FDA initiated the first stage of a plan to phase-out the use of chlorofluorocarbons [CFC's] metered-dose inhalers [MDI's], which are used by asthma and cystic fibrosis patients to breathe. This action was taken ostensibly to protect the ozone layer, despite the fact that less than 1 percent of all ozone-depleting substances in the atmosphere are caused by metered-dose inhalers.

In fact, the amount of CFC's that the EPA allows to be released from automobile air conditioners over 1 year is about the same as 14 years of metered-dose inhaler emissions. If you combined all sources of CFC's allowed by the EPA in 1 year, it would equal 64 years of MDI emissions. And yet the only CFC products targeted for elimination this year are inhalers.

It is also interesting to note that while the FDA and EPA are rushing to eliminate CFC inhalers, they continue to allow the use of a variety of CFC products, including bear-repellent pepper sprays, document preservation sprays, and certain fire extinguishers. This is clearly a case of misplaced priorities—how can historical document sprays be considered more essential than products that protect our children's lives? And while American children and senior citizens will have their treatment regimens disrupted by the FDA's plan, nations like China and Indonesia will be pumping tons of CFC's into the atmosphere from hair sprays and air conditioners until the year 2010.

Not surprisingly, the FDA's plan has generated a firestorm of opposition from patients, respiratory therapists, and physicians: nearly 10,000 letters in opposition have been received to date by the FDA. A coalition of stakeholder organizations reviewed the FDA proposal in May and concluded that the FDA's approach banning therapeutic classes was flawed and must be re-evaluated. The patient and provider organizations also stated that the FDA plan "has the potential to disrupt therapeutic regimens \* \* \* and limit physician treatment options."

It is important to institute a transition strategy that will eventually eliminate the use of CFC's. However, the FDA's proposal is deeply flawed and should be scrapped in favor of a plan that puts patients—not international bureaucrats—first.

To ensure that the interests of patients are upheld throughout the formation of our country's MDI transition strategy, this legislation will temporarily suspend the FDA's proposed

framework until a new proposal can be crafted. In addition, this bill would require the FDA to consult with patients, physicians, manufacturers of MDI's and other stakeholders prior to issuing any subsequent proposal. In addition, my legislation requires the Secretary of Health and Human Services to certify to Congress that any alternatives to existing MDI's will be available to all populations of users of such inhalers, are comparable in terms of safety and effectiveness, therapeutic indications, dosage strength, cost, and retail availability.

Mr. Speaker, this past week we held a press conference in an effort to educate the public and media about the dangers of the FDA's proposal. Participating in this press conference was Tommy Farese, who is 9 years old, and lives in Spring Lake, NJ, and has had asthma since the age of 2. One of the asthma inhalers Tommy uses to breathe—Proventil—would be eliminated under the FDA plan in favor of a non-CFC version that has not been approved by the FDA for use by children. Unless the FDA's proposal is changed, Tommy could lose access to the medicine he needs to breathe and live. Why should Tommy, and 5 million children like him have to face this dilemma?

In my view, any plan to remove safe and effective medications from the marketplace needs to place the interests of children like Tommy Farese first and foremost. Sadly, the FDA plan fails in this regard. Indeed, the FDA plan presumes that CFC-free inhalers serve all patient subpopulations—such as children and the elderly—equally well, despite the fact that children have special needs and many drug therapies are not interchangeable.

Therefore, I call upon the FDA to stop their proposed ban of asthma inhalers. If the FDA insists on moving forward with their antipatient plan, I call upon my colleagues to support and pass the Smith-Stearns bill to allow asthma patients like Tommy Farese retain access to their medicine.

#### HONORING PIETRO PARRAVANO, "HIGHLINER OF THE YEAR"

**HON. ANNA G. ESHOO**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Ms. ESHOO. Mr. Speaker, I rise today to pay tribute to Pietro Parravano, who has recently been named the "Highliner of the Year," the Nation's most respected fishing award. Pietro Parravano has devoted his career to the creation of sustainable fisheries and to the betterment of the lives of fisher men and women. He is a dedicated public servant, currently serving on the San Mateo County Harbor Commission, as a member of the Local Fisheries Impact Program, on the California Seafood Council, and as president of the Pacific Coast Federation of Fisherman's Associations. Pietro Parravano has been a goodwill ambassador for the fishing fleet, and will soon travel to New Delhi, India to represent the United States at the World Forum of Fish Harvesters and Fishworkers.

Pietro Parravano is an exceptional man, and I ask that we honor him in the House of Representatives on the eve of this most auspicious occasion.

COMMUNITY RECREATION AND  
CONSERVATION ENDOWMENT ACT**HON. JOHN J. DUNCAN, JR.**

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. DUNCAN. Mr. Speaker, the land and water conservation fund [LWCF] was established in 1964 to increase recreational opportunities. It does this by using money, collected mainly from oil and gas leases, to purchase Federal lands and to give matching grants to State and local governments for the development of parks and open spaces. While this fund continues to be used for Federal land purchases, very little money has been given to States to assist their efforts in preserving natural areas.

That is why I have introduced the Community Recreation and Conservation Endowment Act of 1997 today. This bill will provide funding for grants to State and local governments to develop, repair, and create new parks and preserve open spaces.

This bill will create a \$1.6 billion permanent endowment to provide LWCF matching grants to local governments. Interest from that account will help provide funding for parks, campgrounds, trails, and recreation facilities for millions of Americans.

Where does this money come from? On June 19, 1997, the Supreme Court ruled that the Federal Government retains title to lands underlying tidal waters off Alaska's North Slope. As a result, the Government will receive \$1.6 billion in escrowed oil and gas lease revenues.

When the land and water conservation fund was established the Federal Government promised to assist State and local governments with preserving natural areas. This legislation will make sure that the Federal Government follows through on that promise. In addition, this bill will ensure that each State receives its fair share of these funds by providing a more balanced distribution of this money between the States.

Mr. Speaker, I urge my colleagues to join me in this effort which will help preserve natural areas all across this country.

## TRIBUTE TO EDDIE ROBINSON

**HON. JOHN COOKSEY**

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. COOKSEY. Mr. Speaker, we all use the term "One of a Kind" but there are actually few men who are truly one of a kind. But there is a "One of a Kind Man" down in Louisiana and he's in my district. His name is Eddie Robinson. Why is he one of a kind? Well, for starters, he has had more than 100 of his players drafted by the National Football League. His school's stadium is named in his honor. No other football coach has ever coached for 54 seasons at the same college. And only one other man ever coached college football for that many years—period. Nobody else has won 17 Southwestern Athletic Con-

ference championships. Nobody else has won so many "Coach of the Year" awards that they named the national trophy in his honor. In 1942, his Grambling State team held all nine of its opponents scoreless. It was only the second time that had ever been done and it has never been accomplished again. And nobody else has ever won 405 college football games. But the main reason I am here to praise Eddie Robinson today is that not only is he a great football coach but he is a good man. He has always appealed to the best in his players and his fans. He is an example of so many of the good things that we hold dear—loyalty, family, hard work, God, and country. So I want to pay tribute right now to a truly great American and a man who is truly one of a kind—Coach Eddie Robinson of Grambling State University.

BUDGET SURPLUSES BELONG TO  
WORKING AMERICANS**HON. DAVID DREIER**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. DREIER. Mr. Speaker, by the end of this fiscal year, the Federal Government could run its first budget surplus in nearly three decades. This is certainly good news. For the past 30 years, deficit spending caused interest rates to be higher than they would otherwise have been, which in turn suppressed economic growth and reduced the living standards of American families. If not managed correctly, however, I am concerned that short-term budget surpluses could actually undermine the progress that Congress has made in recent years in controlling the growth of Government spending and reducing Government interference in the economy.

With Government revenues still growing faster than the rate of economic growth, and without the economic and political consequences of having to raise taxes or expand the Federal debt to pay for new spending, continued efforts to restrain the growth of Government in the face of a budget surplus will likely crumble. Already, there is pressure to spend unrealized surpluses on Washington-run programs that are no accountable for results. That's exactly what happened in the late-1960's and 1970's, when inflation-driven growth created a surge in tax revenues, which increased the Government's appetite for new spending, which in turn led to the deficits of the 1980's and early 1990's.

To deal with this potential problem, two of our Republican colleagues have proposed setting up trust funds to apply projected budget surpluses to debt reduction and tax cuts. These are certainly important priorities. According to a recent Gallop poll, 41 percent of Americans want Government surpluses to go to reducing the national debt, while 42 percent prefer tax cuts. But both proposals still require taxpayers to send their hard-earned money to a Washington bureaucracy that doesn't need it, and the distribution of those funds would be based on political incentives rather than economic incentives.

Today, my colleague from Louisiana Representative WILLIAM JEFFERSON, and I have in-

roduced the first bipartisan bill which attempts to address the concerns about budgetary choices that Congress may make in an era of budget surplus. H.R. 2933, the Working Americans Gainful Employment [WAGE] Act, creates a permanent mechanism to impose consequences on Congress for any effort to spend a Federal surplus. It requires the Secretary of the Treasury to reduce the Social Security payroll tax rate prior to each calendar year by an amount equal to the Federal budget surplus for the fiscal year ending during the preceding calendar year. It defines "federal budget surplus" as the amount by which total Federal revenues exceed total Federal budget outlays—unified budget. It also stipulates that any reductions in Social Security payroll tax rates do not affect revenues that would otherwise be deposited into the trust fund.

The WAGE Act will provide desperately needed relief from a regressive tax on employment. Federal payroll taxes, paid in equal parts by employers and employees, are currently assessed at a rate of 15.3 percent of payroll beginning at the first dollar of an employee's earnings. These taxes, while necessary to finance Social Security and Medicare hospital benefits, impose a tremendous financial burden on working Americans, particularly low- and moderate-income workers. Counting the employer portion of these taxes, which are indirectly borne by employees in the form of lower wages and benefits, approximately 75 percent of American workers pay more in Federal payroll taxes than in Federal income taxes.

The WAGE Act will also promote economic growth through tax rate cuts. Although the payroll tax rate reductions would not be permanent—unless the budget surpluses are permanent—businesses will know in advance what the rate will be for the coming year, and will plan investment and hiring decisions accordingly. Since payroll taxes paid by employers result in reduced employee compensation, any long-term reduction will be funneled back into higher wages and additional jobs. A payroll tax rate reduction will also encourage more small business start-ups because such firms must pay payroll taxes even if a profit is not made.

Payroll tax rate reductions would come from after-the-fact surpluses, not estimated surpluses. The WAGE Act, therefore, would not undermine future efforts to allocate projected budget surpluses to other important priorities, such as tax reform or entitlement reform. If Congress enacts legislation allocating future estimated surplus for other priorities, there is likely to be little if any after-the-fact surplus to apply to payroll tax rate reductions. This is the key incentive that is missing from those proposals which seek to wall off future surpluses for reducing taxes of the Federal debt. The WAGE Act creates a benchmark by which other proposals to allocate future surpluses will be measured. If Congress attempts to apply projected surpluses to new spending or to tax cut efforts, those efforts would come at the expense of a payroll tax cut for working Americans.

And for those who are concerned that payroll tax cuts could undermine revenues flowing into the Social Security trust fund, the WAGE Act explicitly states that deposits into the trust

fund will continue to be based on the current statutory rate of 12.4 percent of wages. In other words, the Social Security and Medicare trust funds will be totally unaffected by this legislation.

Mr. Speaker, dedicating future budget surpluses to Federal payroll tax cuts will lock in fiscal restraint while providing dividends to low- and middle-income workers who pay the bulk of those taxes. Our legislation accomplishes both of these objectives in a bipartisan way, and I urge my colleagues to join us as cosponsors of this bill.

#### RECOGNIZING DAN BLEDSOE

### HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. HUNTER. Mr. Speaker, I rise today to recognize the extraordinary service and dedication of a constituent in my district, Mr. Dan Bledsoe. Dan is a great American who has spent many years of his life defending and honoring our country with selfless service and dedication.

In 1948, Dan enlisted in the Marine Corps Reserve until 1950 when the Korean war began and his unit was called into active duty. Assigned as a scout-sniper, Dan served in several military campaigns during the war, including battles at Inchon, Seoul, and the Reservoir Campaign where 120,000 Chinese Communist troops surrounded an 18,000 U.N. troop location in North Korea. After serving his final campaign in central Korea, Dan left the Marine Corps, being promoted to Sergeant and receiving six battle decorations for his service and outstanding performance.

Dan went on to enroll in the University of San Francisco and, after graduating with a bachelor of science degree in 1955, he entered the Federal Bureau of Investigation [FBI] Academy. Dan went on to serve 25 years as a special agent with the FBI working all across the country and receiving 33 awards that stemmed from successful investigations that resulted not only with the recovery of valuable property and millions of dollars, but lives being saved as well. During this time, Dan also found the time to graduate from Pepperdine University with a master in arts degree in management.

Dan retired from the FBI in 1980 and went to work in the private sector where he continued to serve his community as a member of the Los Angeles Olympic Organizing Committee and then marketing director for the Public Safety Training Association in San Diego until 1989. Married for 42 years and father of two children, Dan currently works as a management consultant and remains active as a member of several athletic and social clubs.

Mr. Speaker, Dan is a symbol of commitment and dedication to his fellow citizens and community. He has pledged a great share of his life to the service of others and as a distinguished soldier, law enforcement officer, and businessman, he was provided his peers with a great example of what it means to be an American. Today, let us congratulate and thank Dan for his unwavering contributions, he

is well deserving and I wish him great happiness in his future endeavors.

#### TAX REFORM

### HON. JERRY WELLER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. WELLER. Mr. Speaker, earlier this week, we passed legislation to restructure and reform the IRS. One of the things that this bill would accomplish is the establishment of an Internal Revenue Service oversight board. If any of my colleagues are wondering why we need more oversight of the IRS, I would invite them to review the statement I am enclosing in the CONGRESSIONAL RECORD today.

The statement, entitled "If You Don't Have Two Motors, You Can't Have Your Money," was recently posted on the INCONGRESS Web site ([www.incongress.com](http://www.incongress.com)) by Cliff Harvison, president of the National Tank Truck Carriers. It details the plight of small business owners who have been denied a tax credit—established over 40 years ago by the Congress—for fuel used for off-highway purposes. The IRS has essentially disregarded this tax credit for "administrative convenience." In other words, the IRS does not trust the taxpayer to tell the truth and does not want to take the trouble to verify factual information itself, so the IRS simply keeps the taxpayers' money.

My distinguished colleague from Nebraska [Mr. CHRISTENSEN] and I have introduced legislation, H.R. 1056, to remedy this problem and force the IRS to comply with the law Congress passed over 40 years ago. However, we have been told that the IRS opposes it. I would hope that we would, perhaps for administrative convenience ignore the IRS and pass it anyway.

Mr. Speaker, this is perhaps one of the most blatant examples of IRS arrogance that I have seen since becoming a Member of Congress. It is stories like this that so clearly justify the need for more oversight of the IRS.

At this point I would like to insert into the RECORD the document entitled "If You Don't Have Two Motors, You Can't Have Your Money," which was posted on the INCONGRESS Web site by Cliff Harvison, president of the National Tank Truck Carriers. I commend it to all of my colleagues and invite them to join with me in cosponsoring H.R. 1056 to restore the off-highway tax credit and supporting H.R. 2676, the Internal Revenue Service Restructuring and Reform Act of 1997.

IF YOU DON'T HAVE TWO MOTORS, YOU CAN'T HAVE YOUR MONEY BY CLIFF HARVISON, PRESIDENT, NATIONAL TANK TRUCK CARRIERS

"If you don't have two motors on your truck, you can't have your money." That's what the IRS has told the tank truck carriers, the waste haulers, the cement mixers and others. The Congress has been hearing a lot of "horror stories" lately about taxpayers being wronged and ripped off by the IRS. Many of these abuses are dramatic, but few have been going on as long as the financial harm the IRS has been inflicting upon members of the National Tank Truck Car-

riers (NTTC) and many other small businesses. The IRS has been keeping money which legally belongs to these taxpayers for years. The IRS' reason for doing so? "Administrative convenience."

THE MONEY: IT BELONGS TO OUR MEMBERS, BUT THE IRS IS KEEPING IT

For over thirty years the IRS has refused to allow federal fuel tax credits to many of our members despite the fact that the law clearly states they are entitled to this money. These members pay federal highway taxes on all fuel purchased at the pump, even though some of the fuel is used for off-highway purposes and should therefore, pursuant to the IRS Code, not be subject to these taxes.

Congress decided in 1951 to provide a tax credit for off-highway business use to taxpayers that pay fuel taxes. However, the IRS apparently decided long ago that it did not like the law, so it simply found a way to ignore it and keep the money anyway.

Generally speaking, off-highway use is the operation by a vehicle of some function other than driving down the road. A tank truck, for instance, consumes fuel for two purposes: first to power the truck as it drives down the street, and second, to operate the pump that loads and unloads its tanks. Operating the pump is precisely the kind of activity the Congress had in mind when it created the tax credit for "off-highway business use." The tank truck operator is entitled by law to obtain a tax credit for any fuel consumed for this purpose.

THE POLICY: YOU CAN'T GET YOUR MONEY UNLESS YOU HAVE TWO MOTORS

In order to receive the credit the taxpayer is supposed to submit to the IRS an accounting of fuel usage by the vehicle which accurately reflects the amount of fuel used for non-highway purposes. However, the IRS decided that it could not trust the taxpayer. So, it decided to simply deny the credit by writing a regulation providing that, in order to qualify for the credit, you must have two separate motors on your truck—one to drive it down the road, the other to power your pump. In other words, the IRS said to the taxpayer, "We don't trust you; we don't care how you conduct your business; we don't care what type of efficient equipment you need or use. If you want to get your money back from us, your truck must have two motors."

THE RATIONALE: THE IRS' "ADMINISTRATIVE CONVENIENCE IS MORE IMPORTANT THAN THE RIGHTS OF TAXPAYERS

Despite the absurdity of the "you can't get your money unless you have two motors" policy, when this regulation was challenged in the Tax Court, the court upheld the IRS, acknowledging that this rule existed for the IRS' "administrative convenience." In other words, the court decided that the administrative convenience of the IRS was more important than the taxpayers' rights under the law. The Tax Court ruled that the IRS could keep money that the Congress said belonged to the taxpayer—or, alternatively, the IRS could force the taxpayer to go out and buy a truck with an extra motor if it wanted to get the tax credit to which the Congress said it was entitled.

THEY DON'T MAKE 'EM LIKE THAT ANYMORE

Adding to the absurdity of this policy the same decision which upholds the IRS' "two motors or you can't get your money" policy, which incidentally was written in 1995, contains the following information about the availability of trucks with extra motors:

"The parties have stipulated that since the early 1970's, manufacturers of vehicles have stopped producing standard vehicles that contain a separate motor to power the vehicles' separate equipment."

**IF YOU HAVE A COMPUTER YOU DON'T NEED TWO MOTORS**

Aside from the fact that it is almost impossible to find vehicles for sale that have two motors, the availability and widespread use of computers which keep accurate and verifiable track of fuel usage today totally undermines the IRS' original rationale of the two-motor rule. Even if there was arguably some rationality behind the policy when it was first implemented back in the fifties, that so-called logic is no longer valid in today's world. The IRS is well aware that computers can more accurately keep track of fuel usage than can two separate motors. We have provided them with this information.

**IF STATES CAN DO IT, WHY CAN'T THE FEDS?**

Various states have found equitable ways that are not "administratively inconvenient" to either rebate or provide credits for state fuel taxes to the same industries that are being denied the federal fuel credit by the IRS. If they can do it why can't the IRS?

"DON'T ASK, DON'T TELL": WE CAN'T RIGHT THE WRONG BECAUSE WE DON'T KNOW HOW MUCH IT WILL "COST"

Our members are aware that Congress must know how much something costs before it writes a law—and we are very supportive of this approach to public policy. Nevertheless, we do not believe that the federal government should have to figure out how much it will cost to stop violating a law before it decides to stop violating it.

The IRS attitude is: we don't want to discontinue our policy of keeping your money even though it doesn't belong to us, because we're not sure we can afford to stop keeping it. This is an absolute outrage. Furthermore, we have been discouraging from even finding out how much the IRS is illegally retaining every year from our members. We should at least be able to get an accounting of how much of the taxpayers' money the IRS is keeping each year. One thing we know for certain—our individual members and the small business owners throughout the country need this money, and more importantly, they are legally entitled to it. We therefore ask the Congress to immediately request an accounting of the IRS with regard to this money.

**THE SOLUTION: IF THE IRS REFUSES TO IMPLEMENT REGULATIONS REFLECTING THE WILL OF CONGRESS, THEN PASS LEGISLATION TO MAKE THE IRS COMPLY WITH THE LAW**

The most sensible way to resolve this would be for the IRS to acknowledge the existence of modern technology and revise its regulations to accommodate tank truck operators and others who can document off-highway usage in an accurate and verifiable way. Unfortunately, the IRS has consistently refused to accommodate the business realities facing taxpayers.

Therefore the only way to make the IRS comply with the federal law and stop them from keeping money that rightfully belongs to our members and many other hard-working owners and operators of small businesses throughout the country is to pass a law that clarifies for the IRS that a credit is a credit. We call upon Congress to do so. H.R. 1056, introduced by Representative JERRY WELLER (R-IL) and JON CHRISTENSEN (R-NE) on March 13, 1997 would accomplish this. We call upon the Congress to disregard the IRS'

objections and pass this legislation, and we invite all Members of Congress who to join us in this effort by co-sponsoring H.R. 1056.

We ask the Congress to acknowledge that it should not "cost" the Treasury money to comply with a law that Congress has already written and disregard the IRS' refusal to comply with the law on the grounds that it would "cost" money or that it would be "administratively inconvenient." If our members, or any other taxpayers, used either of these reasons for not complying with federal law what do you think would happen to them?

**CONGRATULATIONS LEEROY CLARK**

**HON. JAMES A. BARCIA**

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. BARCIA. Mr. Speaker, the hallmark of our Nation is the desire of people to improve conditions for their neighbors and their communities. The Knights of Columbus, Holy Trinity Assembly 2013, is next week recognizing an individual whom I have had the privilege of knowing for some time, Mr. LeeRoy Clark. He is being honored for having dedicated himself to serving the people of Tuscola County through civic activity within a humanitarian outlook.

LeeRoy Clark is the chairman of the board of directors of the Human Development Commission. This organization provides many valuable services to people in Huron, Lapeer, Sanilac, and Tuscola Counties, ranging from food assistance to energy aid, attention to medical needs, and a host of other activities. His sincere determination is known by the many people who have benefited from his civic involvement over the years.

LeeRoy attended Michigan State University, and is a graduate of the General Motors Institute and the FDR Labor Center. A veteran of both World War II and the Korean war, he also has served as a board member of UAW Local 659, president of the Millington Parent-Teachers Association, chairman of the Red Feather Campaign, and Board Member of the Genesee County Mental Health and United Way.

His other civic involvements have included active leadership in the Democratic Party, the Urban League, American Legion, VFW, and Arbela Methodist Church. His good work is widely recognized, and he has won numerous awards from the Tuscola County Advertiser, the Saginaw News, the Michigan State Legislature, the Michigan Association of Community Action Agencies, and the National Caucus and Center of Black Aged.

The award for community service this year is being presented in memory of Father William Cunningham, a long-time civil rights activist who never knew the meaning of two words: "no" and "limits". His philosophy was that more could always be done, and that every proposal was possible with reasonable modification. His enthusiasm was ineffective and his accomplishments simply breathtaking. Any individual winning an award named in honor of Father Cunningham, whose family resides in

my district, has earned an honor that will be difficult to ever match.

Mr. Speaker, I urge you and all of our colleagues to join me in congratulating LeeRoy Clark, his wife Artha, his daughters Linda, Mary, and Charlotte, on this award, and in offering our best wishes for all that the future holds for them.

**REMEMBERING THE LIFE OF MARSHALL GREEN**

**HON. JAMES E. ROGAN**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. ROGAN. Mr. Speaker, I rise today to pay tribute to a man who has been a dear friend, an honorable mentor, and a distinguished community leader, Marshall Green. Two weeks ago, family and friends in California mourned as Marshall lost his courageous battle with cancer and diabetes. But with his passing, we know the memory of his spirit will carry on in those that he touched over the years.

Marshall was born in April 1919, and lived most of his life near his hometown of Los Angeles. Known by most as the nicest man they ever met, Marshall gave his all to his family, his community, and his country.

Marshall served with the U.S. Coast Guard in the Pacific Theater during World War II, seeing action from Alaska to the South Pacific. Following the war, he returned home to his native Los Angeles, where he worked for Universal Studios as an admired and distinguished production executive, working on such films as "Jaws," "Coal Miners Daughter," "Airport," "Earthquake," and "Animal House."

Marshall was an unfailing supporter of his beloved alma mater, the University of Southern California. And while our two schools were crosstown rivals, his devotion, pride and spirit were worthy of envy. He served USC as a distinguished alumni advisor, active member of the board of trustees, and devoted Alumni Club member. Pride in USC gave Marshall a great deal of satisfaction and honest fun. On one occasion, he secretly arranged for the renowned Trojan Marching Band to burst into a meeting at his yacht club to perform for the assembled members.

Humor was only one of Marshall's many trademarks. As the father of one of my dearest friends—and former boss from my days as a deputy district attorney, Terry Green—this is the side I remember. Marshall exuded joy in his life, family, and friends. His dedication to his family and his community was unique and genuine. Marshall leaves behind his beloved wife of 52 years, Patricia, and is survived by his children: Judge Terry Green, Michael Green, Alan Green, Ken Green, and Kelly Green.

Mr. Speaker, good friends are tough to come by, and honest friends even more so. Marshall Green was both of these to many people. In recognizing his life of service and dedication, I ask my colleagues to join with me today in saluting the life of Marshall A. Green.

RESOLUTION WITH RESPECT TO  
GERMAN GOVERNMENT DIS-  
CRIMINATION AGAINST MEM-  
BERS OF MINORITY RELIGIOUS  
GROUPS

**HON. ROBERT W. NEY**

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. NEY. Mr. Speaker, I submit for printing in the RECORD the text of House Concurrent Resolution 22 as approved by the Committee on International Relations.

H. CON. RES. 22

CONCURRENT RESOLUTION

Expressing the sense of the Congress with respect to German government discrimination against members of minority religious groups, particularly those members who are United States citizens.

Whereas since World War II, Germany has been a friend and ally of the United States;

Whereas German government discrimination against members of minority religious groups, particularly against United States citizens, has the potential to harm the relationship between Germany and the United States;

Whereas artists from the United States associated with certain religious minorities have been denied the opportunity to perform, have been the subjects of boycotts, and have been the victims of a widespread and well-documented pattern and practice of discrimination by German Federal, State, local, and party officials;

Whereas the 1993, 1994, 1995, and 1996 United States Department of State Country Reports on Human Rights in Germany all noted government discrimination against members of the Church of Scientology in Germany;

Whereas the German State of Baden-Wuerttemberg barred Chic Corea, the Grammy Award-winning American jazz pianist, from performing his music during the World Athletics Championship in 1993, and in 1996 the State of Bavaria declared its intention to bar Mr. Corea from all future performances at State sponsored events solely because he is a member of the Church of Scientology;

Whereas the Young Union of the Christian Democratic Union and the Social Democratic Party orchestrated boycotts of the movies "Phenomenon" and "Mission Impossible" solely because the lead actors, Americans John Travolta and Tom Cruise, are members of the Church of Scientology;

Whereas members of the Young Union of the Christian Democratic Union disrupted a 1993 performance by the American folk music group Golden Bough by storming the stage solely because the musicians are members of the Church of Scientology;

Whereas the Evangelical Christian Church of Cologne, led by an American clergyman, Dr. Terry Jones, had its tax-exempt status revoked by the German government with the reason being that the church benefits to society were of "no spiritual, cultural, or material value";

Whereas the German government is constitutionally obligated to remain neutral on religious matters, yet has violated this neutrality by supporting and distributing information to the general public that gives the impression that "sect-experts", who are openly critical of all but the major churches, are in a position to provide the public with

fair, objective, and politically neutral information about minority religions;

Whereas the Jehovah's Witnesses' application for recognition as a corporation under public law, which would have put them on equal legal status with the Catholic and Protestant churches, was denied by the Federal Administrative Court because the church's doctrine of political neutrality was considered to be antidemocratic;

Whereas government officials and "sect-experts" are using the decision denying the Jehovah's Witnesses recognition as a corporation under public law as a justification for discriminatory acts against the Jehovah's Witnesses, despite the fact that a constitutional complaint is still pending before the German Constitutional Court;

Whereas adherents of the Muslim faith have reported that they are routinely subject to police violence and intimidation because of their ethnic and religious affiliation;

Whereas the 1994 and 1995 Reports to the Human Rights Commission of the United Nations on the application of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion and Belief by the Special Rapporteur for Religious Intolerance criticized Germany for restricting the religious liberty of certain minority religious groups;

Whereas Germany, as a signatory to the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the Helsinki Accords, is obliged to refrain from religious discrimination and to foster a climate of tolerance; and

Whereas Germany's policy of discrimination against minority religions violates German obligations under the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the Helsinki Accords: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring), That the Congress—*

(1) continues to hold Germany responsible for protecting the rights of United States citizens who are living, performing, doing business, or traveling in Germany, in a manner consistent with Germany's obligations under international agreements to which Germany is a signatory;

(2) deplores the actions and statements of Federal, State, local, and party officials in Germany which have fostered an atmosphere of intolerance toward certain minority religious groups;

(3) expresses concern that artists from the United States who are members of minority religious groups continue to experience German government discrimination;

(4) urges the German government to take the action necessary to protect the rights guaranteed to members of minority religious groups by international covenants to which Germany is a signatory; and

(5) calls upon the President of the United States—

(A) to assert the concern of the United States Government regarding German government discrimination against members of minority religious groups;

(B) to emphasize that the United States regards the human rights practices of the Government of Germany, particularly its treatment of American citizens who are living, performing, doing business, or traveling in Germany, as a significant factor in the United States Government's relations with the Government of Germany; and

(C) to encourage other governments to appeal to the Government of Germany, and to cooperate with other governments and inter-

national organizations, including the United Nations and its agencies, in efforts to protect the rights of foreign citizens and members of minority religious groups in Germany.

A TRIBUTE TO RUBY GIBSON FOR  
80 YEARS OF OUTSTANDING  
SERVICE TO VETERANS

**HON. ESTEBAN EDWARD TORRES**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. TORRES. Mr. Speaker, I rise to pay tribute to Rubye Gibson, for her 80 years of outstanding service to our veterans. On November 11, 1997, during the city of Montebello's Veterans Day ceremony, the community will honor Rubye for her lifetime of dedication to the men and women of our nation's Armed Forces.

As the last surviving president of the Ladies Auxiliary Barracks No. 5, the fifth veterans organization in the United States, Rubye demonstrated tremendous leadership during World War I. During World War II she was a mail carrier for the city of Montebello. Of the period in our Nation's history, Rubye recalls having the fortunate experience of shaking hands with Gen. Jimmy Doolittle and being invited to meet Gen. Omar Bradley. Her lifetime of experience and work with veterans has earned her the respect and admiration of her colleagues and community members.

Rubye comes from a long line of family members dedicated to serving our country. It was at the age of 13, when her brother, while fighting in France received wounds that would keep him hospitalized for 2 years, that Rubye decided the only way she could help her brother was to work with veterans. For the past 80 years, Rubye has kept her commitment to helping our Nation's veterans through her volunteer work with the Veterans of Foreign Wars. To this day, she remains relentless in her effort to sell "buddy poppies" to help hospitalized and indigent veterans.

Along with an unwavering dedication to help our veterans, Rubye has displayed a genuine interest and concern for our community's children. In rural South Dakota, Rubye's career as a school teacher was cut short because, in that day in age, it was unacceptable for a married woman to teach. For 18 years, Rubye volunteered her time to the Dorothy Kirby Center and to the Foster Grandparent Program, where she worked with mentally disturbed children.

Mr. Speaker, it is with pride that I rise today to pay tribute to Rubye Gibson for her lifetime of service to our Nation's veterans. I ask my colleagues to join me in saluting Rubye for her 80 years of selfless commitment to the men and women who have proudly served our country in the Armed Forces.

## CAMPAIGN FINANCE REFORM

**HON. RON KIND**

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. KIND. Mr. Speaker, another day and still no campaign finance reform. We are here on a Saturday trying to finish our legislative business. We have made an extraordinary effort to finish our work so that Members may be able to go home before Veterans Day for the rest of the year. Yet we haven't considered campaign finance reform.

With the possibility of only 1 day left in this session it is obvious that the leadership has no desire to allow a vote. This is too bad. A majority of the Members of this House have signed on to campaign finance reform legislation. A majority of the public wants to see an end to the abuses of the system. The leadership has said no. The public knows that there will be no reform passed next year, during an election year. The leadership of this House has failed the people it is sworn to represent.

AGRICULTURE RESEARCH  
AUTHORIZATION ACT**HON. EVA M. CLAYTON**

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mrs. CLAYTON. Mr. Speaker, I intend to vote for this bill. I look forward to research funding that can assist in finding out the cause of the fish kills in my State, and the origin of the *Pfisteria* that has plagued our waterways. I also look forward to those provisions that will be of benefit to the 1890 land grant Institutions. But, I rise to express my deep concern with the fate of this bill in conference.

Last year, this Congress pushed through major welfare reform legislation. While I supported welfare reform, I did not support those provisions that will leave many Americans without food, without basic nutrition, hungry. Under the Senate bill, we will cut another \$1.2 billion, over 5 years, from the Food Stamp Program. The savings from this new cut in food stamps will go to other agriculture programs.

Mr. Speaker, I do not oppose more funding for those agriculture programs, however, I do oppose further cuts in the Food Stamp Program.

Over 877,000 North Carolinians live in poverty. Of those poor North Carolinians, over 600,000 of them, on average, receive food stamps. Many are senior citizens and children. Last year's welfare reform bill significantly affected food stamp recipients in several ways by: cutting \$27 billion from the Food Stamp Program; freezing the standard deduction, the vehicle deduction, the shelter cap and the minimum allotment; setting strict time limits on the eligibility of so-called able-bodied people between the ages of 18 and 50. These persons will only be eligible 3 months out of 36, unless they are enrolled in a work placement or training program—exceptions are made for areas of high unemployment, but only if the governor of the State requests a waiver.

Our Governor did not see fit to ask for a waiver that included all 37 areas that qualified. Our Governor only asked for a waiver that served seven areas and disqualifying most legal immigrants from receiving benefits until they become actual citizens—even though they pay taxes.

The Senate bill continues to take funds from a program for the poor. The projects that will be funded are worthy. Those who felt the brunt of last year's welfare reform bill, should now feel the relief of these savings. I hope we will provide that relief in the conference agreement on this bill.

## TRIBUTE TO HYSTERCINE RANKIN

**HON. BENNIE G. THOMPSON**

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. THOMPSON. Mr. Speaker, I rise today to pay tribute to Mrs. Hystercine Rankin. Mrs. Rankin, a quilter, received the 1997 National Heritage Fellowship. The award is the National Endowment for the Arts' most prestigious honor in folk and traditional arts.

Mrs. Rankin, a native of Port Gibson, MS, has been a quilter all of her life. She has taught many workshops throughout the State and worked with quilters to help them improve their skill. Mrs. Rankin has also influenced others to become more involved in the quilting community. She is truly an asset to the State of Mississippi.

During her trip to Washington, she had the opportunity to meet with First Lady Hillary Clinton. When asked about her new found acquaintance, Mrs. Rankin simply stated that she never knew that a needle would take her this far from home.

Mr. Speaker, it gives me great pleasure to pay tribute today to Mrs. Hystercine Rankin, one of Mississippi's precious jewels.

HELP FOR THE NATION'S  
COMMUNITY HEALTH CENTERS**HON. CHARLES B. RANGEL**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. RANGEL. Mr. Speaker, I am today sponsoring legislation to help the Nation's frontline health delivery organizations survive the move to managed care. The bill I am introducing today will provide Medicare wrap-around payments to federally qualified health centers [FQHC's] and parallels a provision in this summer's Balanced Budget Act which provided Medicaid wrap-around payments to FQHC's.

FQHC's, such as community health centers [CHC's], receive about 8 percent of their revenues—or about \$200 million annually—in payments for care furnished to Medicare beneficiaries. For the services they provide, health centers are on a so-called reasonable cost basis, which is designed to ensure that sufficient funds are provided to cover the costs of care.

As Medicare patients choose to move into managed care plans which include FQHC's as providers, the payment rates that the health maintenance organizations [HMO's] have been willing to pay the centers is often less than the FQHC payment described in the previous paragraph. My legislation is designed to correct this payment shortfall by providing that each FQHC will receive a supplemental wrap-around payment from Medicare in an amount equal to the difference—if any—between the FQHC rate and the amount the FQHC receives from the HMO. This type of wrap-around provision was included in the Balanced Budget Act for Medicaid payments, but not for Medicare. Today's bill provides parallel treatment for Medicare and Medicaid payments to these frontline health delivery organizations.

Why do these centers need an additional payment? Why can't they live with the managed care payment rate? Basically, these centers do so much additional, uncompensated care and outreach in their neighborhoods that they need what is the equivalent of a disproportionate share payment to help them finance these essential, extra services—and HMO's are unlikely to contract with providers who have these extra disproportionate share costs. If CHC's are to be able to continue their mission of service, they will need Medicare's help in financing these extra costs.

Following is a memo from the National Association of Community Health Centers elaborating on the essential work of the Nation's CHC's and explaining why these extra wrap-around payments are so necessary.

WHY HEALTH CENTERS MERIT A SPECIAL  
WRAPAROUND PAYMENT

The current reasonable-cost reimbursement provisions for health centers were established by Congress to ensure that Medicare and Medicaid cover the reasonable cost of furnishing covered services to their beneficiaries. Underpayment to these centers is particularly onerous because the revenue to cover unreimbursed costs can only come from federal and state grants intended to support services for the uninsured and essential, non-covered services for others. Health centers cannot absorb risk for several reasons:

Their Patients: Health center patients comprise the most vulnerable populations in America today—persons who, even when insured, remain isolated from traditional forms of medical care because of where they live, who they are, and their frequently far greater levels of complex health care needs. Because of factors such as poverty or hopelessness (not to mention the social-environmental threats that permeate low income/underserved communities), health center patients are at higher risk for serious and costly conditions (diabetes, hypertension, TB, high-risk, pregnancies, HIV) than the general population.

Their History and Mission: Health centers were founded to make their services available to all in their communities, and particularly to those who can't get care elsewhere (again because of who they are and their often complex health and social problems). They have already proven their efficiency, but their fundamental mission and purpose should not be compromised by placing them at risk for the care their patients need. On the contrary, because they serve disproportionate numbers of high-risk patients, adequately compensating the health

centers for their care can serve to make risk levels more reasonable for other providers.

Their Services: Health centers offer comprehensive, "one-stop" primary care rather than a traditional medical model for chronic and acute care. Prevention is the focus. These services need to be promoted, not restricted or reduced, as would be the case under risk based contracting. For their patients and communities, in particular, expanding the availability of preventive and primary care services will be vital in increasing access and reducing costs. Here, too, the success of managed care will depend on this.

**Improving Access:** As has been noted, health center patients—whose health problems are typically more serious and more complicated than it true of other Americans—frequently need special services that may not be recognized as reimbursable, but which are essential to ensure that effectiveness of the medical care provided. These services, such as multilingual/translation services, health/nutrition education, patient case management services, outreach and transportation, will need to be provided, even if they are not covered and reimbursable; thus, the centers cannot rely on their other funding sources to cover them against excessive risk.

**No Reserves.** Because of their historic mission and the restrictions placed on them by their funding sources, health centers have no available capital, limited marketing capability, poor and sicker patients and thus no leverage in the marketplace. Moreover, all revenues received by health centers (all of which are either public or not-for-profit organizations) are reinvested in patient care services—there are no "profits," and they have no reserves to protect them against risk. Consequently placing too much risk on health centers would force them to remain outside the managed care system rather than being centrally involved.

Perhaps most importantly, development of primary and preventive care in underserved communities has been particularly effective in reducing unnecessary and inappropriate use of other settings such as emergency rooms which are much more costly. This is especially true of public-private partnerships such as the federally-assisted health center programs, which today provide care to nearly 10 million low income people in underserved rural and urban communities across the nation. Because of their experience, the health centers—together with other key community providers—form the backbone of the local health care system for most underserved people and communities, and have had a major impact on the health of their communities.

Their presence and availability of services has significantly lowered unnecessary use of costlier, less appropriate settings such as hospital emergency rooms and "Medicaid mills".

Their consolidation of both preventive and comprehensive primary care services under one roof has measurably reduced the frequency and cost of preventable illnesses.

Their experience in case management has brought about a substantial reduction in specialty care and hospital admissions, saving millions of dollars for the health care system.

Despite the poorer overall health of their patients, studies have shown that health centers are tremendously effective in reducing total health care costs for their patients. Recent studies in California, Maryland, and New York show that those states incurred

30% lower cost per case for Medicaid recipients who were regular patients of community health centers than for Medicaid recipients who used other providers. These findings underscore those in a earlier 5-day study that showed significant Medicaid savings through use of health centers.

#### TRIBUTE TO DR. MARTIN MARTY, NATIONAL MEDAL OF HUMANITIES RECIPIENT

**HON. WILLIAM O. LIPINSKI**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. LIPINSKI. Mr. Speaker, I rise today to congratulate one of my constituents from the Third Congressional District of Illinois, Dr. Martin Marty of Riverside, IL. Dr. Marty was awarded the National Medal of Humanities for his work in theology. Dr. Marty was presented his Medal by President Clinton on September 29, 1997.

Dr. Marty is a prolific writer and is the author of 50 books and over 4,300 articles. He is the senior editor of the weekly magazine *Christian Century*. In addition to his column in the *Christian Century*, Dr. Marty circulates his own biweekly newsletter entitled *Context*. Dr. Marty also teaches a class in religion twice a week at the University of Chicago.

The National Medal of Humanities was not the first time Dr. Marty has been recognized for his outstanding work. Dr. Marty is the holder of 56 honorary degrees from prestigious universities throughout the world.

Dr. Marty is happily married to his wife Harriet, who accompanied him to dinner at the White House. The Martys also have a son, Micah. Father and son have collaborated on several books, with father supplying the text to the spectacular photos taken by the son. The family are members of Ascension Lutheran Church in Riverside.

I urge my colleagues in the House of Representatives to join me in congratulating Dr. Marty for his fine work. He is a man of incredible spiritual insight with a gift for fine writing. Dr. Marty, I commend you for all your literary contributions and I congratulate you on your National Medal of the Humanities. I hope you continue your work and I wish you the best of luck in the future.

#### CONCERN ABOUT EXPORTS AND DOMESTIC CONTROLS

**HON. BRAD SHERMAN**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. SHERMAN. Mr. Speaker, the Clinton administration policy on encryption makes no sense, is costing the United States critical export dollars, and threatens the fundamental privacy rights of all Americans in the information age.

For an administration that claims it is sympathetic to and supportive of America's high tech practitioners, what is happening today demonstrates exactly the opposite. Because

for all the complexity of designing top of the line computer products and programs with information security—encryption—features, the issues here are not complex at all.

Encryption is both the first and the last line of defense against hackers who would like to get into bank accounts or pry loose credit card information that can cost consumers and businesses dearly. Encryption is crucial for protecting customers and companies from criminal intrusion into both their private lives and their businesses.

Yet the administration says it is addressing the concerns of national security and law enforcement by refusing to permit the export of software with 56 bits or greater encryption protection, unless the company agrees to commit to build key recovery products. It also suggests that the war against criminals, such as pornographers, credit card thieves, terrorists and others too numerous and too diverse to mention, will be all for naught unless government eavesdroppers are handed the keys to unlock all the billions of electronic transmissions that are made every day in today's electronic information age.

Now as ridiculous as it might seem that this administration wants the capacity to tune in on everything going through the airwaves; nevertheless, that is the tool they say they need to protect all of us from today's criminal elements. It is rather mind-boggling to contemplate how the Federal payroll might explode if the NSA and the FBI were given the opportunity to monitor the messenger traffic that goes on every day of the week. But it is also mind-boggling to contemplate the picture of Uncle Sam riding roughshod over privacy rights that have been guaranteed under our Constitution since the days of our Founding Fathers.

If American firms had a monopoly on encryption skills, and if these products were not available from anyone on either side of the Atlantic or Pacific, perhaps an argument could be made for restricting exports of products with encryption that could not be reproduced elsewhere. But that is not the case. What in fact the administration has done, and is doing, is creating, in the words of the *New York Times*, "a bonanza for alert entrepreneurs outside the United States." And even then I see no good reason for restricting the use of encryption within the United States.

I call my colleagues attention to an article from the *New York Times* of April 7, 1997. It tells the story of how the German firm of Brokat Information Systems has carved out a booming business selling powerful encryption technology around the world that the United States Government prohibits American companies from exporting. This German company actually markets its products by telling potential purchasers that they shouldn't use American export-crippling products.

This should serve as a reminder that even if Congress should pass and the President should sign Fast Track authority to negotiate new trade agreements with some of our Latin American neighbors, we are not going to turn our trade deficit around if we persist on handing on a silver platter to foreign competitors markets that should be dominated by American firms.

At this point I would like to insert the article from the *New York Times*, of April 7, entitled

**"U.S. Restrictions on Exports Aid German Software Maker."**

[From the New York Times, Apr. 7, 1997]

**U.S. RESTRICTIONS ON EXPORTS AID GERMAN SOFTWARE MAKER**

(By Edmund L. Andrews)

BOEBLINGEN, GERMANY, APRIL 3.—Boris Anderer and his four partners have a message for the spy masters in America's national security establishment; thank you very, very much.

Mr. Anderer is the managing director for marketing at Brokat Informationssysteme G.m.b.H., a three-year-old software company here that is growing about as fast as it can hire computer programmers.

When America Online wanted to offer on-line banking and shopping services in Europe, it turned to Brokat for the software that encodes transactions and protects them from hackers and on-line bandits. When Netscape Communications and Microsoft wanted to sell Internet software to Germany's biggest banks, they had to team up with Brokat to deliver the security guarantee that the banks demanded.

But what is most remarkable is that Brokat's rapid growth stems in large part from the Alice in Wonderland working of American computer policy. Over the last two years, Brokat and a handful of other European companies have carved out a booming business selling powerful encryption technology around the world that the United States Government prohibits American companies from exporting.

Mr. Anderer could not be happier. "The biggest limitation on our growth is finding enough qualified people," he said, as he strode past rooms filled with programmers dressed in T-shirts and blue jeans.

The company's work force has climbed to 110 from 30 in the last year, and the company wants to add another 40 by the end of the year.

"This company has grown so fast that I often don't know whether the people I see here have just started working or are just visitors," he said.

Encryption technology has become a big battleground in the evolution of electronic commerce and the Internet. As in the United States, European banks and corporations are racing to offer on-line financial services, and many of these services are built around Internet programs sold by American companies like Netscape and Microsoft.

Cryptography is crucial because it provides the only means for protecting customers and companies from electronic eavesdroppers.

Although the market for encryption software is in itself tiny, it is a key to selling technology in the broader market of electronic commerce. Encryption is the first line of defense against hackers eager to pry loose credit card information and raid bank accounts, so it plays a critical role in the sale of Internet servers and transaction-processing systems.

Brokat, which has revenues of about 10 million marks (\$6 million), uses its cryptography as a door-opener to sell much more complicated software that securely links conventional bank computer systems to a bank's Internet gateways and on-line services. Netscape, Microsoft and computer equipment manufacturers all include encryption in the networking systems they sell to corporations.

But the United States Government blocks American companies from exporting advanced encryption programs, because agencies like the Federal Bureau of Investigation

and the National Security Agency fear that they will lose their ability to monitor the communications of suspected terrorists and criminals.

Far from hindering the spread of powerful encryption programs, however, American policy has created a bonanza for alert entrepreneurs outside the United States. Brokat's hottest product is the Xpresso Security Package, a set of computer programs that bump up the relatively weak encryption capability of Internet browsers from Netscape and Microsoft.

Besides America Online, Brokat's customers include more than 30 big banking and financial institutions around Europe. Deutsche Bank A.G. Germany's biggest bank, uses Brokat's software at its on-line subsidiary, Bank 24. Hypo Bank of Munich uses Brokat in its on-line discount brokerage operation. The Swiss national telephone company and the Zurcher Kantonalbank are also customers.

Among Brokat's competitors, UK Web Ltd, based in London, is marketing an equally powerful encryption program in conjunction with a Silicon Valley company C2Net Software. Recently, UK Web and C2Net boasted of selling "full-strength" cryptography developed entirely outside the United States.

"We don't believe in using codes so weak that foreign governments, criminals or bored college students can break them," the two companies said in a statement, in a stinging swipe at the American export restrictions.

Bigger companies are starting to jump into the fray as well. Siemens-Nixdorf, the computer arm of Siemens A.G., recently began marketing a high-security Internet server program that competes with products from Netscape. Companies can download the software from Siemens computers in Ireland.

There is nothing illegal or even surprising about this. The basic building blocks for advanced encryption technology, in a series of mathematical algorithms or formulas, are all publicly available over the Internet. American companies like Netscape sell strong encryption programs within the United States, and companies like Brokat are even allowed to export their product to customers in the United States.

For many computer executives, the real mystery is why the United States Government continues to restrict the export of encryption technology. "The genie is out of the bottle," said Peter Harter, global public policy counsel at Netscape, who complained that American policy thwarts his company's ability to compete.

"I have a good product, and I can sell it to Citibank, but I can't sell it to Deutsche Bank," Mr. Harter said. "It doesn't make any sense. Why shouldn't they be able to buy the same product at Citibank? It makes them mad, and it makes us mad."

In response to industry complaints, American officials have repeatedly relaxed the restrictions on encryption over the last several years, and they did so again last November. But because the speed of computers has increased so rapidly, codes that seemed impenetrable just a few years ago can be cracked within a few hours.

In a policy announced last fall, the Clinton Administration announced that it would allow American companies to freely export cryptography that used "keys" up to 40 bits in length. The longer the key, the more difficult a code is to crack. But banking and computer executives say that 40-bit codes are no longer safe and can be cracked in as little as a few hours by skilled computer hackers. The minimum acceptable code, ac-

ording to many bank executives, must have keys that are 128 bits long.

"From our point of view, there is at least the possibility that a 40-bit encryption program can be broken, and that means there is a danger that our transaction processing could be compromised," said Bernd Erlingheuser, a managing director at the Bank 24 unit of Deutsche Bank. Bank 24 has about 110,000 customers in Germany who gain access to banking services over the Internet using either the Netscape Navigator or Microsoft's Internet Explorer.

Anette Zinsser, a spokeswoman for Hypo Bank, concurred. "Forty bits is just too low," she said. Hypo Bank offers Internet-based banking and discount brokerage services to about 28,000 customers.

In a country not known for high-technology start-ups, Brokat jumped at the opportunity. Mr. Anderer, a former consultant at McKinsey & Company in Germany teamed up three years ago with two fraternity friends, Michael Janssen and Stefan Roeser, and two seasoned computer experts, Achim Schlumberger and Michael Schumacher.

The group originally conceived of building a company around modular software components that were designed for the banking industry, and they financed the company for nearly two years through the money they earned from consulting projects. But they were quickly drawn in the area of encryption, and developed a series of programs around the Java technology of Sun Microsystems.

The Xpresso encryption package is installed primarily on the central "server" computers that on-line services use to send material to individual personal computers. Customers who want to connect to a bank's server download a miniature program, or applet, that meshes with their Internet browser program and allows the customer's computer to set up an encrypted link with the server. The effect is to upgrade the 40-bit encryption program to a 128-bit program, which is extremely difficult for outsiders to crack.

Now, in another step through the looking glass of encryption policy, Brokat is trying to export to the United States. There is no law against that, but American laws would theoretically prohibit a company that used Brokat's technology from sending the applets to their online customers overseas. So the company is now negotiating with the National Security Agency for permission to let American companies send their software overseas, which is where it started from in the first place.

It Brokat convinces the spy masters, the precedent could help American software rivals. "This could open a new opportunity that would benefit American companies if they understand the implications," Mr. Anderer said.

NATIONAL COUNCIL OF SENIOR CITIZENS: KYL AMENDMENT WOULD PUT ELDERLY AND DISABLED CITIZENS AT SERIOUS FINANCIAL AND MEDICAL RISK

### HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. STARK. Mr. Speaker, following is a letter from the National Council of Senior Citizens spelling out why the Kyl-Archer amendment is bad for seniors and the disabled and for the Medicare Program.

I urge Members to oppose this amendment. As the public begins to understand what this amendment would do, they will overwhelmingly reject this proposal and the Members who vote for it:

NATIONAL COUNCIL OF SENIOR CITIZENS,

*Silver Spring, MD, October 30, 1997.*

DEAR SENATOR: The National Council of Senior Citizens strongly opposes any legislation which would reopen the Balanced Budget Act (BBA) for the purpose of limiting or repealing the two-year bar to any Medicare billings after a doctor enters a private payment contract with a Medicare-eligible person. Passage of H.R. 2497, the Medicare Beneficiary Freedom to Contract Act of 1997, would decimate the Medicare program by removing cost protections while reducing the supply of doctors serving the needs of the overwhelming majority of Medicare users.

NCOA opposed, and continues to oppose, the inclusion of the original Kyl Amendment to the Medicare program. Such a provision, allowing a doctor to contract privately for medical care payments outside of the Medicare program, promises to shred three decades of essential quality, consumer, and financial protections which have been incorporated into Medicare.

As enacted, the Kyl Amendment did include the provision barring for two years another Medicare billings subsequent to an agreement for privately-paid Medicare-covered services. Clearly, this could inhibit widespread utilization of the private contract option by many doctors who have not heretofore, in large numbers, declined Medicare payments. Removal of this bar would open the Medicare program to opportunities for many doctors to coerce patients into giving up their Medicare protection in the name of "freedom to contract."

Fewer than 5% of all doctors decline to treat Medicare patients, and only 1% of Medicare beneficiaries have trouble finding doctors. The current doctor-patient Medicare market works well, with no shortage of physicians willing to accept Medicare payments. H.R. 2497 will allow doctors to legally pick and choose patient-by-patient, service-by-service, and dictate payment levels to vulnerable persons needing professional services. Instead of freedom, this would cripple Medicare's ability to hold down health care costs and would put elderly and disabled citizens at serious financial and medical risk.

We pledge every effort to defeat H.R. 2497 or any similar bill and to restore Medicare to its responsibility to cover the costs of an essential set of quality medical services provided by competent doctors and institutions on a uniform and universal basis.

Sincerely,

STEVE PROTULIS,  
*Executive Director.*

## EXTENSIONS OF REMARKS

WEST VIRGINIA'S SENATOR  
ROBERT C. BYRD HONORED

### HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. RAHALL. Mr. Speaker, West Virginia's senior Senator, ROBERT C. BYRD, has been named the 1997 Distinguished Legislator of the Year by the University of Michigan.

Senator BYRD is the second legislator to be so honored by the university, which began the program last year through a gift from alumnus Bertram J. Askwith, who established the program to honor contributions by a U.S. Senator or Representative and to provide support—up to \$40,000 in scholarships—for a student from the honoree's home State or district to attend the University of Michigan.

In accepting the honor, Senator BYRD said "I'm deeply appreciative of this honor, particularly because it provides the opportunity for another West Virginian to pursue a formal education."

Senator BYRD has for years been singularly recognized as an advocate for students who are high academic achievers, have great potential, who merit student tuition assistance because of their hard work and commitment while in school, yet often do not have the means of attending college. He has helped thousands of students receive scholarships through the ROBERT C. BYRD Scholars program, funded under the Higher Education Act. These recipients are students who are not just financially needy, but who also have high grade point averages upon graduation from high school. Senator ROBERT C. BYRD has, throughout his Senate tenure, stressed the need to acknowledge students who work hard in school, are talented, and who, based on merit alone, command our help as they seek to pursue a college career.

I commend the University of Michigan for its recognition of Senator ROBERT C. BYRD as the 1997 Distinguished Legislator of the Year.

But more than that, I salute Senator ROBERT C. BYRD for having, himself, shown the remarkable, personal merit to have attracted the attention of the university to his outstanding lifetime achievements, including many years he served as majority and minority leader in the U.S. Senate, a service to his Nation that, I am confident, helped bring about this new honor as the 1997 Distinguished Legislator of the Year.

Mr. Speaker, many times I have risen to commend our beloved senior Senator from West Virginia, for his enormous heart, his unimpeachable integrity, his unique compassion and for his trustworthiness as a leader of this Nation.

Today, I rise to commend Senator BYRD for a lifetime of work dedicated to helping provide a better life and more opportunity for all people. A humble public servant, Senator BYRD strongly believes in what he himself has said is "this miracle of a country, where anything is possible, dreams do come true, even for a poor lad from West Virginia who once gathered scraps to feed the hogs on a rough hillside farm."

*November 9, 1997*

A TRIBUTE TO TRUSTEE MAY SHARP ON THE OCCASION OF HER RETIREMENT FROM THE LITTLE LAKE CITY SCHOOL DISTRICT BOARD OF EDUCATION

### HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. TORRES. Mr. Speaker, I rise to pay tribute to May Sharp, who is retiring from the Little Lake City School Board after 12 years of distinguished service to the children and community of Sante Fe Springs and Norwalk, CA. On Monday, November 17, 1997, close friends, colleagues, and family members will gather to honor May at a special ceremony at the Clarke Estates in Santa Fe Springs.

As a public servant, May has vigilantly cared for the needs of the children of Little Lake. Her dedication to the education of our children is unparalleled. Elected to the Little Lake City School District Board of Education in November 1985, she has served as its clerk for four terms, vice president for two terms, and president for two terms. Her leadership has gained her the respect and admiration of her colleagues and community members. She has been selected to serve as a representative to the Los Angeles County School Trustees Association for three terms, Whittier Area School Trustees Association, Los Angeles County Committee on School District Organization, California School Board Association, and the Trustee Review Committee for the Whittier Area Cooperative for Special Education.

May has been active in education since her eldest son, Lea, entered school in 1961, joining the Lakeview PTA. As an active parent and concerned resident, she has held various chairmanships of PTA committees and served as the secretary and vice president of the PTA before being elected president in 1971. She served at Lakeview until her two sons, Lea and Robert, entered Lake Center, where she took an active role in leading that PTA. She was instrumental in the founding of the Little Lake PTA Council. She has served as an officer since its inception and as its president from 1977 to 1979 and 1981 to 1982. Even during her tenure as a member of the school board, May remained committed to the principles of the PTA and committed many hours to volunteering for PTA sponsored activities.

As a member of the Little Lake City School District Board of Education, May has diligently worked to improve the educational opportunities for all students. She has been supportive of student endeavors like the music program and Washington, DC, visit at Lake Center Middle School. She is active not only throughout the school district, but also throughout the city of Santa Fe Springs.

May has served on the city of Santa Fe Springs Beautification Committee for the past 15 years. Also, she has been Mrs. Santa on the Christmas float each year since its inception and active in the leadership of the Santa Fe Springs Women's Club. She is a supporter of the Community Red Cross Holiday Celebrity Chefs, Santa Fe Springs Chamber of Commerce Destiny Scholarship, and the Santa Fe Springs Community Play House.

May's husband, Al Sharp, serves on the Santa Fe Springs City Council. Along with their two sons, Lea and Robert, daughters-in-law Annie and Lisa, May and Al have two granddaughters, Crystalyn and Candice, who attend school and in the Little Lake City School District.

Mr. Speaker, is it with pride that I rise today to pay tribute to May Sharp on the occasion of her retirement from the Little Lake City School District Board of Education after 12 years of distinguished service. I ask my colleagues to join me in saluting May Sharp for her years of unwavering commitment to our children and her determination to providing the best possible education for our youth.

#### PEOPLE OF CUBA

### HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. ANDREWS. Mr. Speaker, I rise today to speak on behalf of the thousands of Cubans who have no voice, for they have no freedom.

On Wednesday, November 5, 1997, yet another resolution was passed by the U.N. General Assembly, condemning our country's economic sanctions against the megalomaniacal dictator, Fidel Castro. One hundred forty-three other nations, including our good trading partners from Europe, Canada, and Japan voted in support of Castro and against the United States. What those countries fail to realize is that they are working against the freedom loving people of Cuba.

For Americans, Cuba, is in many ways, a family matter for us. Hundreds of thousands of Cuban families have been separated on opposite sides of the Florida Straits for years. Cuban-Americans, refugees really from war, have long dreamed to someday be reunited with family and to see their homeland free once again. Unless strong steps are taken to end the Castro regime, that dream will remain just that—a dream. Standing up to Cuba, standing against Castro and his dictatorship, is the only way to turn those dreams into reality. Using our economic leverage makes it clear to the people of Cuba there is no reconciliation with Fidel Castro, there is no compromise, and it is time to bring the dictatorship to a close. We do this as we did against South Africa with apartheid and as we do today against Iraq.

I am filled today more with sorrow than with anger that our allies, our friends, would support the continuation of oppression and tyranny. However, on this most recent vote, I am gratified that we were joined by two distinguished voices for freedom: Israel and Uzbekistan. These two nations have faced and conquered the obstacles that stand in the way of freedom and realize that freedom, and its bounty, is the fundamental human right.

Castro has had a wall put up around Cuba for almost 40 years. It is our duty, as the pillar of democracy, to tear down those walls and bring freedom to the people yearning for it. I am reminded of Robert Kennedy's words, which are so appropriate now. "Each time a man stands up for an ideal, or acts to improve the lot of others, or strikes out against injus-

tice, he sends forth a tiny ripple of hope and crossing each other from a million different centers of energy and daring, those ripples build a current that can sweep down the mightiest walls of oppression and resistance." The walls today stand between the people of Cuba and freedom and were built by Castro. Those walls must come down. America must tear them down. If the United States has to stand alone against Cuba's violent dictatorship, then so be it.

#### INTRODUCTION OF A RESOLUTION CONDEMNING DISCRIMINATION AGAINST ASIAN AND PACIFIC IS- LANDER AMERICANS

### HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Ms. ESHOO. Mr. Speaker, I rise today to introduce a resolution expressing the sense of Congress that all prejudice against Asian and Pacific Islander-Americans in the United States should be condemned, and that Congress should support the political and civic participation of these Americans through the United States.

I am introducing the resolution at this time when Congress is conducting investigations into possible campaign fundraising violations during the 1996 campaigns. No one disagrees that investigations into legitimate campaign fundraising problems should be conducted or that any individual or party that may have participated in illegal activities should be prosecuted regardless of ethnicity. However, I'm concerned that the tone set by the congressional investigations into possible campaign finance violations may increase biased treatment of Asian and Pacific Islander-Americans.

Media coverage of the figures being questioned, who are of Asian descent, and of alleged contributions by Asian nations has created a perception that Asian and Pacific Islander-Americans as a group should be blamed for the problems of campaign fundraising arising from prohibited from owning property. Under the Alien Land Act passed in California, aliens ineligible to citizenship were prevented from owning land. Other States followed suit and enacted similar laws.

Perhaps the most egregious civil rights violation against Asian or Pacific Islander-Americans was the internment of over 120,000 people of Japanese descent during World War II. Two-thirds of them were American citizens. They were denied their constitutional rights, forced from their homes, incarcerated in internment camps, surrounded by barbed wire, and placed under surveillance of armed guards. Their allegiance to the United States was questioned only because they were of Japanese descent. Not until 1988, when former Representative Norm Mineta introduced legislation to right this historic injustice, was an apology made by the U.S. Government to those interned during the Second World War.

Although anti-immigrant laws were later repealed, those interned received a formal apology, and significant gains have been made by

the Asian and Pacific Islander community in the United States, there is still much work to be done to fight discrimination against these citizens.

Asian and Pacific Islander-Americans continue to face racially motivated bigotry and violence, just as they did when their ancestors arrived in this country over 150 years ago. The 1992 report: Civil Rights Issues Facing Asian Americans in the 1990's by U.S. Commission on Civil Rights recounts numerous incidents of bigotry and violence over the last two decades. The National Asian Pacific American Legal Consortium's 1996 Audit of Violence Against Asian the 1996 elections. Reporters contacted donors of Asian descent simply because they were Asian when the story of possible contributions from Asian nations broke. The media has also used offensive racial stereotypes to depict the fundraising violation problem. For instance, the March 24, 1997, cover of the National Review depicted the President, Vice President, and the First Lady in Asian dress and stereotypically racist physical features.

I am also disturbed by stories of congressional activities possibly driven by racial stereotypes. For instance, by colleague, Representative MORAN, described on the floor last week the story of a constituent who received a subpoena for the telephone records of his wife from the House Committee on Government Reform and Oversight just because she has a Chinese surname.

The United States has a long, sordid history of discrimination against Asian and Pacific Islander-Americans. The Chinese Exclusion Act of 1882 limited the number of Chinese immigrants admitted into the United States. It was the first and only immigration law in American history that targeted a specific nationality and was passed due to growing anti-Chinese sentiment created by white laborers competing for jobs. It wasn't repealed until 1943.

The Gentlemen's Agreement of 1908 prohibited Japanese immigration, and the National Origins Quota System limited the number of immigrants from Asian nations.

At the beginning of our Nation, the Founders limited the eligibility for citizenship to free white persons only. In the early 1900's, laws restricting citizenship led to Asian immigrants being Pacific Americans found an increase of 17 percent of anti-Asian incidents reported for 1996 from the previous year. This is particularly disturbing since violent crimes on the whole for 1996 decreased by 7 percent.

In recent months, we have seen incidents of racially motivated violence and harassment toward Asian and Pacific Islander-Americans to discourage their political participation. Students on a University of California campus protesting the anti-affirmative initiative, proposition 209, received chilling hate calls. Asian or Pacific Islander-Americans running for political offices in California, Ohio, and Washington reported their campaign materials vandalized with racial slurs.

Mr. Speaker, the resolution I am introducing reaffirms the rights of the Pacific Islander-American community and underscores the need to protect and advance the civil and constitutional rights of all Americans. I urge my colleagues to do the same and support this resolution.

## WOMEN-OWNED BUSINESSES

**HON. JUANITA MILLENDER-McDONALD**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Ms. MILLENDER-McDONALD. Mr. Speaker, I am proud to announce that today my colleague, SUE KELLY, and I introduced an important resolution which recognizes important findings and makes recommendations on ways to assist women-owned businesses obtain more Federal procurement opportunities.

On September 25 of this year, we cochaired an unprecedented bipartisan forum addressing the vast growth of women-owned firms and the contrasting poor rate of procurement to these firms. This was a historic day for women business owners, for it was the first time that women business owners have ever convened on Capitol Hill to share their stories with members of the Congressional Caucus on Women's Issues.

On that historic day, the problems contributing to the dismal Federal procurement rate of 1.8 percent to women-owned firms became painfully clear. Despite the 5 percent Federal procurement rate goal which Congress established in 1994, the procurement rate remains low because of the lack of access to the Federal contracting process, the bundling of contracts frequently excluding small women-owned businesses, the ineffective outreach to women business owners, the poor and often incomplete feedback which is provided to businesses when their bid is not accepted, and the need for one certification for all women-owned businesses.

The sense of Congress resolution we have introduced today is the first step in our plan to address these problems and ensure that there is indeed a level and fair playing field for all business owners. I am fully committed to ensuring that this goal is met and that women-owned businesses are given equal opportunity to obtain a piece of the more than \$200 billion annual procurement pie. Women-owned businesses are growing at nearly twice the rate of all other U.S. firms, employ 18.5 million people, and produce \$2.38 trillion in revenues to the U.S. economy every year. We simply cannot allow this discrepancy to continue.

There is a wealth of knowledge and skills steeped within these women-owned businesses that we as an economic leader in the global marketplace cannot afford to ignore. Today, we take this first step to recognize the contributions the more than 8 million women-owned businesses are making to strengthen our economy. In the coming months, I will continue to recognize these achievements and take concrete actions to ensure equality of opportunity in obtaining Federal contracts.

ELECTRONIC FINANCIAL SERVICES  
EFFICIENCY ACT OF 1997**HON. RICHARD H. BAKER**

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. BAKER. Mr. Speaker, today I am introducing the Electronic Financial Services Effi-

ciency Act of 1997. This bill is designed to provide a uniform nationwide framework to encourage the use and validity of electronic authentication.

New forms of electronic communication are being utilized as an alternative to paper-based documentation and correspondence. Computers are now routinely used to initiate and execute a substantial and growing number of personal, business, and financial transactions. As a result, the problem of authenticating the identity and the signature of parties using computers has become a major concern. Unless a reliable alternative to written signatures is acknowledged, the promise of electronic commerce will not be fully realized.

State legislatures have recognized this need. At the present time 30 States have enacted or have introduced some form of digital authentication law. Unfortunately, these State statutes lack uniformity both in scope and application. Electronic communications and commerce take place on the Internet or elsewhere in cyberspace. Therefore, State boundaries have little relevance and conflicting State electronic authentication laws may ultimately inhibit the development of electronic commerce.

The bill I am introducing today is designed to address the issue of conflicting and confusing developments under current and proposed State law. The purpose of the Electronic Financial Services Efficiency Act of 1997 is threefold: First, to provide for the recognition of digital and other forms of authentication as an alternative to existing paper-based methods, second, to improve the efficiency and soundness of the Nation's capital markets and payment system, and third, to harmonize the practices, customs and uses applicable to electronic authentication on a uniform, nationwide basis.

The first goal is accomplished by explicitly recognizing that all forms of electronic commerce that comport with specific, basic statutory standards shall have parity with written signatures. As a result, they will be considered valid for all communications with Federal agencies, U.S. Courts and other instrumentalities of the U.S. Government.

In order to minimize confusion and encourage uniform national treatment, unless the laws of a State otherwise expressly provide, all forms of electronic authentication that comport with the Federal statutory standards shall have the same standing as written signatures for all legal purposes.

The second goal is met by the establishment of the National Association of Certification Authorities [NACA]. Any person or group that wishes to provide electronic authentication services in the United States must be a registered NACA member. The NACA may admit any person or group to membership, provided they are licensed and provide electronic authentication services consistent with the standards set forth in this act.

The third goal is met by the creation of an Electronic Authentication Standards Review Committee within the NACA. Overseen by the Secretary of the Treasury, the Standards Review Committee shall establish, develop, and refine criteria to be applied to new electronic authentication methods, consistent with the specific standards set forth in the Electronic Financial Services Efficiency Act of 1997.

Recognizing that digital authentication will be used in retail transactions, this legislation requires that consumers be notified of the fact that an electronic communication or transaction has been digitally authenticated. Furthermore, the act states that any rights currently afforded to consumers in underlying transactions are not in any manner impaired or weakened. Additionally, the Standards Review Committee has the authority to address consumer protection by exercising its rule-making and enforcement powers.

Mr. Speaker, I believe that this legislation will authorize and validate the use of electronic authentication. It will also encourage innovation and stimulate competition in the design and use of reliable state-of-the-art digital technology.

RECOGNIZING THE SERVICE OF  
ALICE PETROSSIAN**HON. JAMES E. ROGAN**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. ROGAN. Mr. Speaker, I rise today to pay tribute to a woman who had dedicated her career to serving students throughout California and our Nation—Alice Petrossian. Now more than ever, we must encourage our teachers to be their best, push our students to work hard and set goals, and invest in strengthening our education system. Recently, this dear friend and educator was awarded the Professional of the Year award by the Armenian Professional Society for her ongoing commitment as an educator.

Alice began her career at California State University Los Angeles, earning both her bachelor's and master's degree before heading to California State University Hayward to pursue her teaching credential. He work toward excellence in education was recognized early on as she received the Most Outstanding Graduate award at both schools.

Alice then moved back to southern California where she became actively involved with the Glendale Unified School District serving recently as the director of special projects and intercultural programs. She has received much recognition for her service, and her talents have been called upon by each of the last three Governors of California.

Alice has served on the California Community College Board, the California Post Secondary Education Board, and has worked with the Commission for the Establishment of Academic Content and Standards to ensure that quality curricula are united with well-prepared teachers offering our children the tools necessary for the future.

Alice's most important work goes beyond any committee or board on which she might serve. Since her arrival in Glendale, she has reached out to students of all backgrounds. Alice has put faith in at-risk students, and those that might slip through the cracks. Her efforts to provide quality education for all students have distinguished her as a friend of education.

Alice has gone above and beyond the call of duty by establishing scholarship funds, promoting mentoring programs, and working to

benefit all students. The greatest honor she can receive, and the greatest thanks we can offer is by witnessing the change in the lives of every student she has touched. In recognition of her commitment to education, and to the students of California and our Nation, I ask my colleagues to join me today in saluting the service of Alice Petrossian.

TRIBUTE TO IRSHAD-UI-HAQUE

**HON. JAMES E. ROGAN**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Saturday, November 8, 1997*

Mr. ROGAN. Mr. Speaker, I rise today to pay tribute to a man who has exemplified the spirit and determination of what makes American great—Irshad-UI-Haque. Irshad has built a career as a devoted family man, successful entrepreneur, and compassionate community leader. He has cleared many hurdles in life, and always come out with a compassion for

his fellow man and a personal commitment to make a difference.

In 1960, Irshad came to the United States from Pakistan with very little money and speaking very little English. However, he was not deterred. He labored exhaustingly long hours in a sweatshop for a paltry \$1.00 per hour. With an eye on his future, he dedicated himself to learning English, pursuing an academic career, and working to make the most of his future.

Irshad attended classes when not working, and moved on from Pasadena City College to the University of Southern California, where he earned a degree in business. Following graduation, Irshad spent over 10 years working for the Xerox Corp. where his talent was quickly recognized.

In 1972, Irshad and his wife took a gamble. They opened Bantam Associates and eventually turned a family-owned property management company into the parent of one of the largest storage and archive management firms in the Nation. He will quickly shy away from

claiming too much success for his achievements, the biggest credit he will pay to his wife and his daughters.

Irshad leads by example, and has been deeply involved in many philanthropic organizations. He has dedicated his time and resources to the Los Angeles Police Department, the Boy Scouts of America, various chambers of commerce and service organizations, and to health care agencies serving the elderly and poor. Because of his many acts of service, Irshad was awarded the Glendale Man of Achievement Award last week by the Glendale News Press.

Irshad Haque has taken his thread of knowledge, determination, and compassion and woven it into a shining example of what makes our country whole. In recognition of his selection for the Man of Achievement honor, and in gratitude for his service to his community, I ask my colleagues here today to join me in thanking and congratulating a great American, Irshad-UI-Haque.